AGENDA
PLANNING COMMISSION
REGULAR MEETING

Thursday, October 21, 2010
7:00 p.m.

Shoreline City Hall
Council Chamber
17500 Midvale Ave N.

		Estimated Time
1.	**CALL TO ORDER**	7:00 p.m.
2.	**ROLL CALL**	7:01 p.m.
3.	**APPROVAL OF AGENDA**	7:02 p.m.
4.	**DIRECTOR'S COMMENTS**	7:03 p.m.
5.	**APPROVAL OF MINUTES** a. September 16 Regular Meeting b. October 7 Regular Meeting	7:08 p.m.
6.	**GENERAL PUBLIC COMMENT**	7:10 p.m.

During the General Public Comment period, the Planning Commission will take public comment on any subject which is not of a quasi-judicial nature or specifically scheduled later on the agenda. Each member of the public may comment for up to two minutes. However, the General Public Comment period will generally be limited to twenty minutes. The Chair has discretion to limit or extend time limitations and the number of people permitted to speak. Speakers are asked to come to the front of the room to have their comments recorded and must clearly state their first and last name, and city of residence.

7.	**STAFF REPORTS**	
	a. Study Session: Southeast Neighborhood Subarea Plan Implementation	7:15 p.m.
	b. Study Session: Tree Regulations	8:30 p.m.
8.	**PUBLIC COMMENT**	
9.	**DIRECTOR'S REPORT**	9:50 p.m.
10.	**UNFINISHED BUSINESS**	9:52 p.m.
11.	**NEW BUSINESS**	9:54 p.m.
12.	**REPORTS OF COMMITTEES & COMMISSONERS/ANNOUNCEMENTS**	9:56 p.m.
13.	**AGENDA FOR** November 4	9:58 p.m.
14.	**ADJOURNMENT**	10:00 p.m.

The Planning Commission meeting is wheelchair accessible. Any person requiring a disability accommodation should contact the City Clerk's Office at 801-2230 in advance for more information. For TTY telephone service call 546-0457. For up-to-date information on future agendas call 801-2236.

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These Minutes Subject to October 21st Approval

CITY OF SHORELINE

SHORELINE PLANNING COMMISSION MINUTES OF REGULAR MEETING

September 16, 2010 Shoreline City Hall
7:00 P.M. Council Chamber

Commissioners Present
Chair Wagner
Vice Chair Perkowski
Commissioner Behrens
Commissioner Broili
Commissioner Esselman
Commissioner Kaje
Commissioner Moss

Staff Present
Steve Cohn, Senior Planner, Planning & Development Services
Paul Cohen, Senior Planner, Planning & Development Services
Jeff Forry, Permit Services Manager
Flannary Collins, Assistant City Attorney
Jessica Simulcik Smith, Planning Commission Clerk

CALL TO ORDER

Chair Wagner called the regular meeting of the Shoreline Planning Commission to order at 7:03 p.m.

ROLL CALL

Upon roll call by the Commission Clerk the following Commissioners were present: Chair Wagner, Vice Chair Perkowski and Commissioners Behrens, Broili, Esselman, Kaje and Moss.

APPROVAL OF AGENDA

The agenda was approved as submitted.

DIRECTOR'S COMMENTS

Mr. Cohn did not provide comments during this portion of the meeting.

APPROVAL OF MINUTES

The dinner meeting minutes of August 19, 2010 were approved as submitted, and the regular meeting minutes of August 19, 2010 were approved as amended.

GENERAL PUBLIC COMMENT

Laethan Wene, Shoreline, said he is on the Board of Director's for Northwest Center, and they want to build a facility for people with disabilities in the City of Shoreline. They would like a letter in writing from the City regarding the process.

Chair Wagner recognized Mayor McGlashan, who was present in the audience.

LEGISLATIVE PUBLIC HEARING ON DEVELOPMENT CODE AMENDMENTS (#301650 AND #301642)

Chair Wagner reviewed the rules and procedures for legislative public hearings. She announced that the Commission received a number of items via email, and a desk packet was provided at the meeting. Because some Commissioners did not have an opportunity to read all of the items, they agreed to take a break after the staff presentation.

Staff Overview and Presentation of Preliminary Staff Recommendation

Mr. Forry reviewed that the Commission has held several study sessions on the proposed amendments, and notice of the hearing was provided in *THE SEATTLE TIMES*, the Planning Commission's webpage, and the Development Code webpage. In addition, notices were submitted to the Department of Ecology (DOE) through the Department of Commerce as required. Staff reviewed the proposed amendments as follows:

- **Modify Chapter 20.30, which deals with the State Environmental Policy Act (SEPA), to remove the requirement for SEPA review of categorically exempt projects that are located within critical areas.**

  Mr. Forry referred to the proposed amendment that would eliminate the review of otherwise exempt action in critical areas. He explained that, currently, the code provides that environmental review is required for any proposal that is conducted within a critical area or critical area buffer. This provision came from SEPA and originally referred to "critical areas" as "environmentally sensitive areas." He explained that, since that time, the City adopted a Critical Areas Ordinance under the provisions of the Growth Management Act (GMA) that requires the use of best available science. Staff now believes that the City's Critical Areas Ordinance has matured to the point where the SEPA tool no longer provides additional protection. Therefore, they are recommending removing the requirement for SEPA review of categorically exempt projects that are located within critical areas. He emphasized that the proposed amendment would not eliminate the review of items that rise above the current thresholds (more than 4 single-family dwelling units, more than 4,000 square feet of new commercial space, clearing and grading over 500 cubic yards). Nor would it eliminate permit provisions for those activities that are conducted in or around critical areas, which would still be subject to review under the City's current standards.

Mr. Forry explained that the environmental review (SEPA) is very narrow and only addresses a proposed structure's impact to a critical area. It does not address the proposed development itself. Therefore, there is a tendency to look at deficiencies in the Critical Areas Ordinance during SEPA review. Staff suggests a better approach is to reevaluate weaknesses and discrepancies in the Critical Areas Ordinance, if appropriate, as a separate issue.

- **Modify Chapter 20.30, which deals with the State Environmental Policy Act (SEPA), to change the appeal process for Type C quasi-judicial actions.**

Ms. Collins explained that the current language allows for the underlying open record public hearing on a permit application to be heard by the Planning Commission for most Type C actions. However, the Hearing Examiner is supposed to hear administrative appeals to SEPA. This results in a split of authority and is inconsistent with the Revised Code of Washington (RCW), which requires that the issues be consolidated into a single hearing and heard by one body. The proposed amendment is intended to address this discrepancy. She reminded the Commission that State law does not require the City to have an administrative SEPA appeal. They can choose to offer it or not. As per the proposed amendment, administrative SEPA appeals would still be provided for Type A and B actions, but they would be eliminated for Type C actions. She acknowledged there are other options to address the issue. For example, the City could transfer all Type C review authority for the underlying permit (master plans, rezones, etc.) to the Hearing Examiner, including the SEPA appeal. Another option is for the Planning Commission to retain all Type C permit review and hear all SEPA appeals or for the Commission to hear Type C permits and the City Council hear SEPA appeals.

Ms. Collins said that neither the City Attorney's Office nor the City's insurance authority recommends the Planning Commission or City Council hear SEPA appeals because they are very litigious in nature. She explained that, typically, SEPA decisions are appealed based on procedural issues, and Hearing Examiners are very familiar with how to hold appeals and limit the issues. Other bodies are not as familiar with the process.

Mr. Forry said that as requested earlier by Commissioner Kaje, staff researched comparisons from other jurisdictions in the area. They found that each jurisdiction is different in the way their structure their permits and assign them to a hearing body. In addition, the authority of the various hearing bodies differs greatly. Therefore, it was difficult for staff to draw a straight-line comparison. Staff believes the City's current process fits their permit structure. He explained that, at this time, the Hearing Examiner and Planning Commission conduct an open record hearing, and any SEPA evaluation issued by the Planning Director is still brought before the Planning Commission in its entirety for consideration as part of the record. Testimony can be taken at the hearing on all of the issues. A complete record can be formed during the Commission or Hearing Examiner hearing, but it would not be considered complete until the City Council has issued a decision or approved a permit. The conditions would be very clear and well-established at that point, and appeals would go to the Superior Court.

Mr. Forry explained that, even though the Planning Director might issue a SEPA decision on an application, the conditions are based on the information received up to that point. Through public

testimony, the Hearing Examiner may identify additional mitigations. These could be added without having to go through an appeal process. Staff believes the City's current process is a bit redundant, depending on what they are trying to accomplish with the public hearing and appeal processes. He suggested the Commission ask themselves if an appeal is intended to be a mechanism to look at a failure in the procedure or decision making process, or is it a mechanism to delay a project. If it is truly a mechanism to look at failures in the process, the Commission and the Hearing Examiner should have an opportunity to create a full record for the City Council to make a final decision. That is why staff recommends that appeals on Type C actions be judicial and not administrative. This would not eliminate any of the administrative processes for Type A and B actions.

- **Rewrite of Chapter 20.70, which deals with engineering guidelines, by moving the technical standards from Chapter 20.70 to the Engineering Development Guide.**

Mr. Forry explained that, from time to time, staff evaluates how the City is doing business and what technical standards are used during plan review. There are technical standards in place in the Engineering Chapter of the Development Code, primarily with regard to access management, that had no relationship or point in time; and they did not point to a particular engineering manual that staff could identify. Staff is recommending these technical standards be removed from the Development Code and placed in the Engineering Development Guide, which includes all of the various technical engineering manuals adopted by the City. However, when the technical standards were removed, Chapter 20.70 became very fragmented and staff decided to restructure and re-write the provisions in the chapter.

- **Rewrite of Chapter 20.70, which deals with engineering guidelines, by modifying the provisions for single-family frontage improvements.**

Mr. Forry said staff is recommending an amendment that would remove the frontage requirements for individual single-family dwelling units and additions and alterations to single-family dwelling units. He explained that, currently, the Development Code requires frontage improvements for additions and alterations to single-family dwelling units that exceed 50% of the assessed value of the property and structure. In their review of the provision, staff found the City was asking property owners to do system improvements under a permit that was not generating an impact. The need for frontage improvements is not caused by a remodel, replacement or construction of a single dwelling unit.

Mr. Forry said staff also found that the City is asking property owners to dedicate right-of-way to implement the frontage improvements. However, by law, the City is required to pay for this right-of-way, and the City is not in a position where they need or want to acquire additional right-of-way. In light of the transportation impact fee proposal that will be coming forward for City Council consideration in the future and because the City cannot draw a nexus to the requirement, staff is recommending the requirement be eliminated for individual single-family dwelling units. However, the proposed amendment would not eliminate frontage improvements for other types of development such as commercial, multi-family, subdivisions, short plats, etc. The City will continue to ask for frontage improvements on any project that would have an impact on the road system. In addition, the amendment would not eliminate the City's ability to ask for improvements to the right-of-way to

correct a safety issue that may exists when a new house is constructed or an existing house is remodeled.

- **Add a new section (20.33.040) to the Development Code to formalize the process for creating an annual Comprehensive Plan Amendment docket for City Council review.**

  Mr. Cohn said the City has never had a formalized process for their Comprehensive Plan docket, which means it changes somewhat from year to year. Staff believes it is appropriate to formalize the process at this time. The proposed amendment states that proposals would be accepted throughout the year, but the deadline would be the last business day in December. It further states that the public would be notified of the deadline three weeks prior to the closing date. At a minimum, the deadline would be advertised in the local newspaper and available on the City's website. After the deadline, all proposals would be posted on the City's website, and a draft docket would be presented to the Planning Commission for review. The docket recommended by the Planning Commission would be posted on the City's website and forwarded to the City Council, who would establish the final docket. Once the final docket has been established, staff would analyze each amendment and provide a recommendation to the Commission. The Commission would review each of the amendments throughout the year and forward a recommendation to the City Council for final approval.

Mr. Forry noted that some of the public comments in the Staff Report were brought forward from previous study sessions and public hearings. They also received additional comments today. One issue was regarding the permitting process, which is not really germane to tonight's discussion, but is germane to the Commission's discussion on process and how they implement the regulations. There was a question about the process used by the church on 155th and 15th for their major expansion project. He noted that City records indicate that the owners of the church property went through a conditional use process in 1999 and 2000, which was a public process and comments were taken. A SEPA review was conducted and a Mitigated Determination of Significance (MDNS) was issued that allowed the project to go forward.

Mr. Cohn entered the following items from the Desk Packet into the record:

- **Exhibit 5:** Minutes from the May 6, 2010 Planning Commission Meeting.
- **Exhibit 6:** Minutes from the June 17, 2010 Planning Commission Meeting.
- **Exhibit 7:** Minutes from July 15, 2010 Planning Commission Meeting.
- **Exhibit 8:** Comment letter from Ms. DiPeso submitted at the June 17, 2010 Planning Commission Meeting.
- **Exhibit 9:** Comment letters from the May 6, 2010 public hearing desk packet.
- **Exhibit 10:** An email chain between Ms. Phelps and Joe Tovar dated July 12, 2010.
- **Exhibit 11:** An email from Mr. Marinac dated July 12, 2010.
- **Exhibit 12:** A comment letter from Mr. Scully dated July 12, 2010.
- **Exhibit 13:** An email from Ms. Roth dated July 13, 2010.
- **Exhibit 14:** An email from Ms. Kellogg dated September 14, 2010.
- **Exhibit 15:** An email from Ms. Kellogg dated September 14, 2010.
- **Exhibit 16:** A letter transmitted by email from Ms. Kellogg dated September 14, 2010.

- **Exhibit 17:** An email from Ms. Kellogg dated September 16, 2010.
- **Exhibit 18:** An email from Ms. Kellogg dated September 16, 2010.
- **Exhibit 19:** A comment letter from Mr. Scully dated September 16, 2010.

Mr. Cohn noted that staff received a number of suggestions about improving public outreach, particularly dealing with advertising public hearings. He expressed his belief that staff has met the letter and spirit of the law in this case, as they do in most cases. They advertised the hearing in *THE SEATTLE TIMES*, sent information to the state, posted information on the Planning Commission webpage, and email links were sent to a list of more than 200 individuals. However, staff is currently researching the suggestion that the City's home page include an announcement of upcoming Planning Commission and City Council public hearings. Staff believes this is a very good idea, and they will try to make it a reality.

Questions by Commission to Staff and Applicant

Commissioner Behrens observed that the majority of the public comment letters and emails address the proposed amendment related to categorical exemptions for SEPA that has apparently been dropped. Mr. Cohn agreed that this amendment is not a subject of tonight's hearing. Commissioner Behrens questioned how necessary it is for the Commission to review public comments on an amendment that is no longer before the Commission for consideration. Mr. Cohn agreed that the bulk of the comments received to date talk about items that are not currently before the Commission for review. He suggested it would be appropriate for the Commission to have a retreat discussion about what information would be appropriate to include in the Commission packets for legislative public hearings.

The Commission recessed the regular meeting at 7:40 p.m. to review Exhibits 10 through 19, which were part of their desk packet. The meeting reconvened at 7:54 p.m.

Vice Chair Perkowski referred to the proposed amendments to Chapter 20.30 and asked if other jurisdictions are having the same issue with State law as it relates to SEPA appeals. Mr. Forry answered that the City is one of the few that has a split hearing process. Most jurisdictions have one hearing body that hears both the open record hearing and the SEPA appeal.

Ms. Collins clarified her earlier comment that there is an option for appeals to go to the City Council. She explained that State law includes an exemption that allows the City Council to hear SEPA appeals that are not consolidated with the underlying permit hearing. Mr. Forry added that if the Council were to hear SEPA appeals they would be closed record hearings, and the focus would be on the environmental process. They would not be allowed to hear other issues regarding the proposal, and they must rule only on the evidence of record and the findings imposed by the hearing body. He summarized that this would be a very complicated and narrow appeal process.

Vice Chair Perkowski asked what the risk would be if the City does not amend the current process. Ms. Collins said they must take action one way or another because they are currently out of compliance with the RCW.

Commissioner Behrens said he was somewhat encouraged by Mr. Forry's comment that SEPA issues could be raised as part of an open record hearing before the Planning Commission for Type C actions. He asked how staff foresees this happening. Mr. Forry responded that if, in their review of an application, the Commission finds that an environmental document and its associated mitigation are weak, they can use their conditioning authority to clarify mitigations and to look at the adequacy of the mitigations based on the testimony and the information at hand. However, any additional conditions they recommend must be based on ordinances, rules and policies.

Commissioner Behrens said he feels better about the proposed change that would eliminate appeals for Type C Actions because the Commission and City Council would have the ability to carefully consider environmental issues as part of their decision-making process. He suggested the process be formalized to provide clear direction to the public about when they should raise environmental issues. Mr. Cohn agreed that would be a good idea for master plan applications because the Commission has the right to condition their approval. However, it would be more difficult to implement this concept for rezone applications because the Commission does not have the right to condition them. If people raise issues during a rezone hearing that have not been addressed, the Commission can use this information to decide whether or not to recommend approval of the rezone.

Commissioner Behrens expressed concern that the Commission would be forced to make decisions on whether to approve or disapprove a rezone even if they feel that serious environmental issues need to be addressed. They would not have the ability to hold up the rezone until the impacts have been mitigated. Mr. Forry said that, typically, impacts associated with rezones are most likely related to subsequent development projects. Most projects that would rise to the level of having a significant impact would be evaluated under SEPA anyway, and impacts could be addressed at that time. The purpose of a rezone process is to validate whether or not the zoning is in conformance with the underlying Comprehensive Plan policies. While a public hearing is required and SEPA is involved, the necessary impacts are not large because, in theory, most of the environmental analysis has been done through the Comprehensive Planning process and the specific environmental impacts of a project would be reviewed at the project level.

Commissioner Kaje observed that, as proposed, if the Planning Director issues a DNS for a Type C action, there would be no way for the Commission to compel the level of analysis that would happen through an Environmental Impact Statement (EIS). Mr. Forry agreed. Commissioner Kaje said he can foresee situations where the Commission refuses to make a decision, sending staff and/or the applicant back to the drawing board to address environmental impacts that should have been considered as part of an EIS. Mr. Forry explained that when a proposal comes forward, the Commission has the option to recommend approval, denial or approval with conditions. If they feel the information is inadequate, they could choose not to act and remand the issue back to staff for further consideration or recommend that the City Council not act on a proposal, and the applicant would be required to refine the application if they want it to move forward. Other options would be to condition it sufficiently to move it forward or to request that staff reconsider their environmental determination, which requires an official process. He said that as more information becomes available, it would be incumbent upon staff to reevaluate their SEPA determination.

Commissioner Behrens said he understands that the City's current appeal process for Type C actions conflicts with the WAC. However, he believes it is appropriate to have another body other than the Commission make decisions related to SEPA since they would be able to isolate their decisions to just the environmental portion of a proposal. He expressed concern that requiring the Commission to request a re-evaluation of a SEPA determination would place them in a difficult position. He would prefer to avoid this possibility entirely. Mr. Forry said that is exactly what the proposed language is intended to accomplish. If the Commission were the formal appeal body, they would be required to function under a very structured environment with very stringent rules. The Commission would craft a very strict record that could go to a judicial appeal. They have much more flexibility during a quasi-judicial hearing before the Planning Commission than they would have if they were conducting the hearing in tandem with an appeal under SEPA. That is why staff recommends they not eliminate appeals, but that the appeals happen after the record is formed and all the conditions have been applied. Courts have recognized in their analysis of SEPA appeals that this type of process could extend the review period, but they also recognized that additional time is already built into the legislation. While it is an option, he said staff does not believe the City's current system lends itself to administrative appeals of Type C actions. The Commission should feel comfortable raising their concerns to staff and requesting additional information to help them make an informed decision, and it is totally appropriate for the Commission to determine they do not have enough information to make a recommendation.

Public Testimony

Debbie Kellogg, Shoreline, said it was useful to finally hear the truth come out about why staff wants to dispense with administrative appeals. Previously, staff stated that the purpose was to promote business development and make the process more predictable. Staff has now indicated they believe people file appeals just to hold up the process, and not to make a better project or to see that the process is fair, just and complete. She noted that over the past 25 years, less than 25 appeals were filed for Type C projects. Of those appeals, only about four were Type III appeals. She summarized that staff is proposing to not even allow an avenue for appeals on Type C projects, which are the most intensive land use actions. She said she finds the proposed amendment mind boggling, and she cannot understand how staff could advocate for the change. She suggested it would be prudent for the City to develop a more granular approach for separating the types of land use actions and how to treat them, instead of cramming them into three types. They should redo the entire process instead of trying to make the current process work.

Commissioner Behrens asked how Ms. Kellogg would address the current conflict with the WAC. Ms. Kellogg suggested they study what other jurisdictions do. For example, Bothell and Issaquah separate land use actions into much more detailed and multi-tiered levels. They base their process on the type of project and how intense it will be. They have established different types of review boards, and assign projects to different types of review authorities. This allows them to get around the conflicts with the WAC because the review bodies also hear the appeals. Again, she suggested that they redo the entire program instead of looking at the problem the same way over and over again.

Elaine Phelps, Shoreline, expressed her belief that a democracy is messy, and tyranny is very efficient. She suggested that when the City removes the citizens' opportunity to provide input and their

accessibility to information and participation in very important local decision, they are removing one of the most important aspects of democracy. It is important for people to know what is going on so they can have a say before action is taken. Anything that diminishes the public's ability to participate is that much less democracy and that much less successful. These types of changes create antagonism and dissention between City staff and the citizens. She urged the Commission to think about how democracy works best. Land use decisions should be made in the local neighborhoods.

Wendy DiPeso, Shoreline, expressed her belief that eliminating administrative appeals would mean citizens would have no recourse except Superior Court. Someone recently said that, "anytime a citizen has to sue the City, that represents a failure." She suggested that, in this case, it also represents an avoidable expense. She observed the irony of tax dollars being spent to defend the City in court against taxpayers who are just watching out for the best interest of their community. In a perfect world, all the codes and land use regulations would be supportive of a healthy community and enforced consistently. In a perfect world, developers would use best-use practices that improve the environment and provide value to the neighborhood. In a perfect world, we would not need a court system, and there would not be contempt of court assessments against the City staff or reason for any appeals. However, they do not have a perfect world, so they are doing the best they can with what they have to work with. She suggested that an appeals process that is outside the court system is a valuable tool that any community needs to stay healthy. She summarized that allowing the City Council to handle administrative appeals would meet the requirements of the Revised Code of Washington (RCW) and retain the right of the public to have a say in issues that affect them.

David Pyle, Shoreline, submitted written comments for the record. He said he was present to talk specifically about the proposed amendment to Chapter 20.30, which would remove the requirement for SEPA review of categorically exempt projects that are located within critical areas. While he fully appreciates staff's reasoning, he suggested they have gone one step too far by exempting projects in all critical areas and not just the critical area buffers. He noted that a whole host of exemptions apply to critical areas under WAC, unless the City specifically states they do not. They have heard from staff that the proposed amendment is generally recommended, but they did not indicate who is making this recommendation. He observed that there is a series of exemptions that do not apply to critical areas, which are sensitive resources in the City. That means that certain actions require SEPA review, which gives the community an opportunity to comment on a proposal. He referred to Chapter 20.80.030 (Exemptions) and said that while it may appear that if SEPA is not required, another permit would be required to address environmental issues. However, this alternate permit may not have an appeal mechanism or a notice requirement. He suggested that Item L in Section 20.80.030. could be interpreted to mean the City could exempt anything and there would be no appeal period or permit requirements except for a basic clearing and grading or building permits. A developer could potentially fill a wetland.

Commissioner Behrens asked Mr. Pyle how he would change the proposed language. Mr. Pyle referred to his written comments, and recommended the language be changed to read, "The following types of construction shall be exempt, except: 1) When undertaken wholly or partly on lands covered by water; and 2) the proposal would alter the conditions of a critical area or stream critical area buffer defined by SMC 20.80."

He explained that right now, the City requires SEPA when work is done within the buffer area, which is ridiculous in most cases. The City is losing out on competitiveness. No one wants to do work in the City because they have to do SEPA every time they get near the buffer. He suggested that the core of SEPA and the Growth Management Act (GMA) is the protection of critical areas resources, which is the actual critical area (wetland, steep slope, etc.) and not the buffer. Anytime someone is proposing to alter or modify a critical area, SEPA should be done. He summarized that the community wants critical areas to be protected, and that is the purpose of the ordinance.

Vice Chair Perkowski observed that work within a wetland would not be exempt under the Critical Areas Ordinance. Therefore, SEPA would be required. Mr. Pyle answered that as per the proposed amendment, any work done within a wetland that meets one of the exemptions would not require SEPA review. That means you could remove up to 500 cubic yards of fill within a wetland without doing SEPA review because it would be exempt. While a permit may be required, the exemptions would determine the type, and the proposed language opens the door to political abuse.

Boni Biery, Shoreline, provided an example of a recent situation that occurred in the City and asked the Commission to consider what doing away with administrative appeal would mean for the citizens. She said she lives a few blocks from the CRISTA Campus, and they recently went through the master development plan process. Almost everyone in the neighborhood was upset with some of the decisions that were made, but no one could afford to take their concerns to judicial review. One person did so only because a brother was a land-use attorney who paid for it. The proposed amendment would put appeals out of the price range of the regular tax-paying citizens and place them into the favor of developers who can afford the process. If that's the intent, getting rid of the administrative appeal is a good idea.

Chair Wagner cautioned the Commission from commenting on the CRISTA Master Plan since there is a pending appeal.

Vice Chair Perkowski asked Ms. Biery what hearing body she would recommend for appeals to Type C actions. Ms. Biery said she cannot give them a recommendation at this time. She can only tell the Commission how it feels to think that she has to have a very large sum of money to even consider an appeal. This eliminates the citizens' ability to participate in the process.

Commissioner Behrens observed that the Commission is faced with a dilemma. The WAC says they can only have one hearing before a single hearing body. It appears from the public comments, that citizens are asking a voluntary organization to act in a very complicated legal process that they are probably not qualified for. He said he would be very uncomfortable trying to wade through a SEPA hearing, and the City Council would likely feel the same way. Ms. Biery said she appreciates this concern. While she does not have an answer, the one thing she has heard tonight that makes sense is to look at the problem in a new way.

Final Questions by the Commission

In response to Commissioner Behren's previous question, Mr. Forry said staff looked at how the proposed amendment would apply to what staff believes is a very streamlined and appropriate permitting system given the level of permits and types of actions the City deals with. Part of his task is to review the City's current process to see how they reflect the community's needs and what the City is trying to accomplish with goals, visioning, etc. He also considers input from the City Council and the community. Dismantling a system that seems to be working fairly well most of the time to address a structural flaw to be compliant with State law seems almost over the top. The choices are very narrow. It is a matter of deciding what path the Commission and City Council want to take. Staff still recommends going with a judicial appeal.

Mr. Forry explained that the proposed amendment would not eliminate public participation in a very public process. The intent is to change the method of appeal. He observed that an individual could go through the process of formulating an appeal in an open record public hearing, with the Commission acting as the hearing body. If the Commission reaches the same conclusion as before the appeal, the individual's next course of action would be to appeal the decision to Superior Court. He said he would not recommend going through a wholesale change of the City's regulations at this point

Ms. Collins pointed out that the criteria for Type C actions include a lot of environmental consideration. Therefore, requiring an additional SEPA review for these applications would be a duplication of process. She emphasized that, as per the proposed amendment, the public would not lose their ability to comment regarding environmental issues, and the City's ability to condition a project based on the Critical Areas Ordinance is more excessive than with SEPA, particularly in regard to a master development plans.

Chair Wagner asked what the appeal process would be if someone did not like a condition that is imposed on an applicant to address an environmental impact. Ms. Collins answered that these appeals would go to Superior Court, as well.

Commissioner Kaje summarized that previous conversation has implied that it would be too difficult for the Commission to take on an appeal role, and he respects the staff's recommendation that neither the Commission nor the City Council should do so. He observed that, currently with Type C decisions, the Planning Commission conducts the hearing and forwards a recommendation, but the City Council makes the final decision. Appeals to City Council decisions must go to Superior Court as per Section 20.30.200 of the Development Code. He summarized that they are not talking about the Commission hearing an appeal on the permit decision. As per the WAC, only two things can be appealed procedurally: the final threshold determination and the final EIS.

Commissioner Kaje referred to Section 20.30.210 (Grounds for an Administrative Appeal) of the Development Code, which states that the "grounds for filing an appeal shall be limited to the following: A) the director exceed his/her jurisdiction or authority; B) the director failed to follow applicable procedures in reaching the decision; C) the director committed an error of law; or D) the findings, conclusions or decision prepared by the director or review authority are not supported by substantial evidence." He agreed the Commission should not have appeal authority for appeals related to Reasons A and C, but they could possibly serve as the hearings body for appeals related to Items B and D. He

reminded the Commission that their purpose is to consider substantial evidence. He suggested they separate the appeal types into separate categories. The Planning Commission could hear appeals related to Reasons B and D, and appeals related to Reasons A and C could go before another hearings body. He noted that State law does not even require SEPA appeals. Therefore, it appears they can be somewhat choosy in how they are done. He noted that implementing this approach would require a change in Section 20.30.200.A, which is a general statement about appeals.

Ms. Collins asked what would happen in the case of an appeal that is not limited to Reasons B and D or Reasons A and C. Commissioner Kaje replied that if they choose to cite either A or C as the reason for their appeal, they would have to go to a higher hearings body. Only appeals related to Reasons B and D could go before the Commission for review. Ms. Collins said this approach would be unique, but complicated to implement. However, she agreed it would be compliant with State law. Staff agreed to consider this option further.

Vice Chair Perkowski asked for an example of how Commissioner Kaje's recommendation would play out. Commissioner Kaje reminded the Commission that the appeal would have to be related to a threshold determination or the final EIS. The proposed concept would not be applicable to appeals related to the final permit, which is a City Council decision. As per his proposal, appeals to the threshold determination or the EIS would come before the Commission in conjunction with the public hearing on the permit application. If the Commission decides the SEPA determination is appropriate, they would move onto the open hearing for the permit application. If they decide the SEPA determination is inappropriate, the application would be remanded back to staff for further review.

Vice Chair Perkowski asked staff to describe the City's current process for reviewing appeals to a SEPA determination before an application is presented to the Commission or City Council. Ms. Collins answered that the SEPA determination cannot be challenged before the matter comes before the Commission for review. The proposed amendment would create the ability for someone to challenge a SEPA determination before an application is presented to the Commission for review. That means that before the Commission even talks about the criteria and conditions they want to place on a permit, they will consider whether the environmental review adequately addresses the impacts. Mr. Forry added that any SEPA appeal would be heard at the same hearing as the permit application. The Commission would conduct two separate public hearings on the same evening: one for SEPA and another for the project, itself.

Commissioner Behrens asked if an applicant would be able to appeal for Reasons A and C at a later date if the Commission denies their appeal for Reasons B and D. This could result in a legal quandary of having two SEPA appeals. Commissioner Kaje noted that there is a deadline for appealing SEPA determinations. However, Mr. Forry said that as long as there is an appeal action in process, the timeline would not be limited.

Vice Chair Perkowski referred to Mr. Pyle's comments regarding the proposed amendment to Chapter 20.30, which would remove the requirement for SEPA review of categorically exempt projects that are located within critical areas. Mr. Forry said that Mr. Pyle was referring to the list of over 40 categorical exemptions under SEPA, and not the exemptions listed in the Critical Areas Ordinance. He recalled that

the Commission and City Council went through a process to evaluate the criteria in the Critical Areas Ordinance and identify those activities that are not significant and could be allowed within a critical area or a buffer with no additional environmental evaluation. He explained that if the City is not comfortable allowing an open-ended exemption at the discretion of the Planning Director, they need to reevaluate and possibly amend the Critical Areas Ordinance. They cannot use SEPA to evaluate the inadequacy of the Critical Areas Ordinance. Staff recommends that the level of review provided under the normal stormwater regulations, land-development regulations, and permit criteria give adequate protection. Therefore, SEPA seems a bit redundant in this particular case.

Vice Chair Perkowski asked why the City could not eliminate some of the exemptions from the Critical Areas Ordinance. Mr. Forry said it is possible to eliminate some of the exemptions identified in the Critical Areas Ordinance, but State law is very specific on how the SEPA evaluation is enacted. The City must choose a level of categorical exemption, and then decide whether or not it would apply to critical areas. For instance, citing of a cell tower that is under a certain height and size is categorically exempt under SEPA. To have it affected by the critical area SEPA component, the City would have to say whether or not it is exempt as it pertains to SEPA. This would not be written into the Critical Areas Ordinance, since the items in the Critical Areas Ordinance are intended to identify certain activities that are allowed without additional evaluation.

Commissioner Kaje referred to Section 20.80.030.B.4 (exemptions) of the Critical Areas Ordinance, and said it is very common to have exemptions for utilities. However, the proposed change for SEPA may result in a double loophole for projects that are of a scale that should have triggered closer review. For example, if they remove the language from Section 20.30.560 as proposed, there would be no review based on either SEPA or the Critical Areas Ordinance if a 499-yard fill is done for a utility project. Mr. Forry emphasized that the proposed change would only apply to those activities that fall below an exempt threshold. The relocation of a sewer line may be exempt from strict compliance with the Critical Areas Ordinance criteria if it is mandated by the City. However, most sewer lines are over 8 inches in size and would still require environmental review. The proposed amendment merely takes away the SEPA review on those proposals that would otherwise be categorically exempt. A cut and fill of 100 cubic yards is categorically exempt under the SEPA rules, but if it occurs in or around a critical area, SEPA would be required by the Critical Areas Ordinance. He summarized that staff believes the existing regulations in the Critical Areas Ordinance are adequate to address these situations. In addition, an applicant would need approval from the Department of Ecology and from the Corps of Engineers if a wetland is involved.

Commissioner Behrens referred to Item I of Section 20.33.040, and asked if all of the required analysis must be done by the applicant at the time a site-specific Comprehensive Plan amendment is submitted. Mr. Cohn said staff would likely allow applicants to submit site-specific Comprehensive Plan amendments without the required analysis for the draft docket. However, after an item has been placed on the final document a few months later, a complete application would be required. Commissioner Behrens suggested that the time frame and application process should be made very clear in the language. Mr. Cohn concurred and agreed to make the appropriate changes.

Mr. Cohn explained that when site-specific Comprehensive Plan amendments are submitted in conjunction with a rezone application, the two items would be bundled into one public hearing before the Planning Commission and the more stringent quasi-judicial process would be applied. He noted that a Comprehensive Plan change is a policy question, and the City Council tends not to give the Hearing Examiner policy questions to deliberate on.

Vice Chair Perkowski referenced Items F and J of the proposed new Section 20.33.040 and voiced his opinion that the language is vague as to the Planning Commission's role in the docketing process. Mr. Cohn explained that the Commission would review the proposed amendments on the final docket based on criteria found in the Comprehensive Plan. However, their review of the draft docket would be a general decision that is not based on any particular criteria. The Commission agreed that this information should be clearly spelled out in Items F and J. Vice Chair Perkowski also recommended that the language in Item J should make it clear that the proposed amendment may be altered and revised by the Commission as part of their review and recommendation to the City Council.

Commissioner Esselman asked if the Fire Department has provided comments about the process for identifying addresses for accessory dwelling units that are developed on single-family lots. Mr. Forry answered that the City utilizes the criteria in the International Fire Code for establishing building identification (addresses) for secondary dwelling units, and staff works with the Fire Department to assign separate addresses.

Commissioner Moss referenced Footnote 7.c at the top of Page 2 of Attachment 4 (Page 55 of the Staff Report) and noted that *THE ENTERPRISE* is no longer published. Therefore, the footnote needs to be updated.

Closure of Public Hearing

The public hearing was closed at 9:22 p.m. A new hearing would be re-noticed for another date in the future.

DIRECTOR'S REPORT

Mr. Cohn did not provide a report.

UNFINISHED BUSINESS

Study Session: Town Center Guidelines

Mr. Cohen explained that the purpose of tonight's discussion is to review the proposed organizational and fundamental changes to further refine the design standards. He noted that technical changes would be forthcoming. He specifically reviewed the following proposed design standards:

1. **Thresholds for Review (20.92.010) –** Mr. Cohen recalled the Commission's previous discussion that if property owners do small changes incrementally, there will never be full design review. He

explained that besides having to track what happens on a property over the previous three years, the thresholds are somewhat arbitrary and difficult to apply. For example, a change of more than 50% can be quite different, depending on the type and size of the structure. Staff would like to repeat the threshold used in other parts of the Development Code for when the full site or just the areas proposed for change must meet code requirements. Anytime the threshold is met, administrative design review would be triggered. He clarified that developments that fall below the threshold would still have to meet the design standards, but administrative design review would not be triggered. Staff is also recommending that administrative design review be required when anyone proposes a departure from the design standards.

2. **Northeast 180th Street and Aurora Avenue North Intersection –** Mr. Cohen recalled that there has been some discussion in house about providing a connection across Town Center at about Northeast 180th Street. Staff is recommending the inclusion of a policy that the City pursue the development of a signalized intersection at Aurora Avenue North and Northeast 180th Street to facilitate vehicular and pedestrian access to and across Aurora Avenue. The 182nd Street connection between Midvale Avenue and Linden Avenue could be eliminated.
3. **Zoning Map –** Mr. Cohen referred to a new version of the Zoning Map, which reduces the number of districts from five to four. The Linden Avenue District (TC-4) was converted into a transition overlay zone because all of the requirements are related to transition. They also looked at other areas with this same situation: the very northwest corner of TC-3 (Firlands), behind City Hall right off of 175th, and along the southeast corner of Town Center (Seattle City Light right-of-way). In addition, he advised that the overlay width has been narrowed slightly to match a proposed change in the stepback requirements for building bulk.
4. **Building Height.1 –** Mr. Cohen explained that the original proposal was a 40-foot stepback for every 10 feet of height. Staff would like to change that to require the first 45 feet of the building to remain at 35 feet in height or less, and then a 20-foot stepback for each 10 feet of height. That means the initial portion of the buildings facing the residential areas would have quite a bit of stepback before a greater height is allowed. He advised that requiring stepbacks greatly reduces the development potential on the northwest and southeast corner where the Town Center Subarea connects to single-family areas. However, they are allowing more development potential towards the center of the subarea, with heights of up to 70 feet after the stepbacks are done.
5. **Building Height.2 –** Mr. Cohen said staff is recommending the initially proposed height bonuses be removed because they are not incentives when "green" building standards will be part of the building code. The real incentive would be to offer full development potential, especially if they are suppressing it around the edges next to single family development. Staff would provide a diagram of how a development could step up in overall bulk based on the proposed design standards. He said staff believes that if people can develop based on the proposed design standards, that would be incentive enough to allow a potential height of 70 feet towards the interior of Town Center. He noted that this could be altered at some point in the future if necessary. He said his focus has been to protect the single-family areas along the perimeter and then emphasize the design standards. The City should be demanding at the ground level where the pedestrian interaction occurs, and then look for opportunities to pare back the standards for upper levels. He noted that a maximum height of 70 feet allows a developer to provide a 15-foot ground floor (commercial standard) and five additional stories at a height of 10 feet each, as well as an additional five feet to accommodate roof design.

Mr. Cohn asked if the TC-3 District would allow a maximum height of 70 feet, as well. Mr. Cohen answered affirmatively. However, all of the stepback requirements would have to be met.

Commissioner Kaje said he likes the transition overlay approach, but he encouraged staff to think about how transition zone might be affected if several single-family properties are rezoned to higher densities through site-specific actions. Mr. Cohen agreed that if the zoning of numerous single-family properties changed, then the transition overlay would have to be adjusted. The purpose of the overlay is to build some assurance that the City is looking out for the needs of the residential neighborhoods. The code language could state that the transition zone only applies to the existing situation. He observed that the overlay zones should extend beyond the areas shown on the map because the impacts pivot around the zone.

Commissioner Moss noted that the values of properties and structures have gone down substantially. She asked what baseline number would be used to determine whether or not a proposed project would exceed 50% of a property's existing value.

Commissioner Esselman said she supports the proposed crossing at Northeast 180th Street, but she also believes it is important to provide as many access points as possible to bring additional life to the center. She suggested that perhaps the current access on Northeast 182nd Street between Midvale and Linden Avenues should be maintained in some form.

Mr. Cohen suggested that the section related to neighborhood protection should include a stepback chart related to the transition area. It should also include recommendations or actual requirements regarding traffic diversion, parking, and vehicular access. These issues are very much on the minds of people who live in the area. Chair Wagner suggested that shared parking, pedestrian safety and curb cuts should also be addressed.

Mr. Cohen summarized that staff would come back in November with a more polished and streamlined proposal, as well as illustrations of how the proposed design standards would be applied to sample test sites. In addition, staff would provide a Sketch-up model to illustrate how the entire subarea could be assembled based on the proposed design standards. Once the Commission is comfortable with the proposal, a public hearing would be scheduled.

NEW BUSINESS

No new business was scheduled on the agenda.

REPORTS OF COMMITTEES AND COMMISSIONERS/ANNOUNCEMENTS

None of the Commissioners provided reports during this portion of the meeting.

AGENDA FOR NEXT MEETING

Mr. Cohn said the Commission would have a study session on miscellaneous Comprehensive Plan amendments on October 7th in preparation for a public hearing in November. Ms. Simulcik Smith reminded the Commission of their upcoming retreat and invited the Commissioners to share their comments about the draft agenda. Mr. Cohn suggested the Commission hold a discussion about the types of information they want staff to provide as part of their packet for legislative public hearings.

ADJOURNMENT

The meeting was adjourned at 9:48 P.M.

_____	_____
Michelle Linders Wagner	Jessica Simulcik Smith
Chair, Planning Commission	Clerk, Planning Commission

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DRAFT

These Minutes Subject to
October 21st Approval

CITY OF SHORELINE

SHORELINE PLANNING COMMISSION
MINUTES OF REGULAR MEETING

October 7, 2010 Shoreline City Hall
7:00 P.M. Council Chamber

Commissioners Present
Chair Wagner
Commissioner Behrens
Commissioner Kaje
Commissioner Moss

Staff Present
Steve Cohn, Senior Planner, Planning & Development Services
Steve Szafran, Senior Planner, Planning & Development Services
Jessica Simulcik Smith, Planning Commission Clerk

Commissioners Absent
Vice Chair Perkowski
Commissioner Broili
Commissioner Esselman

CALL TO ORDER

Chair Wagner called the regular meeting of the Shoreline Planning Commission to order at 7:08 p.m.

ROLL CALL

Upon roll call by the Commission Clerk the following Commissioners were present: Chair Wagner and Commissioners Behrens, Kaje, and Moss. Vice Chair Perkowski and Commissioners Broili and Esselman were excused.

APPROVAL OF AGENDA

No changes were made to the agenda.

DIRECTOR'S COMMENTS

Mr. Cohn announced that the owner of the Aurora Rents property has applied for a permit to construct a building on the site of their former building. He also announced that the owners of the Echo Lake development constructed a staircase to provide access from the neighborhoods to the lake. Therefore, they have completed all of the conditions associated with the rezone.

APPROVAL OF MINUTES

No minutes were presented for approval.

GENERAL PUBLIC COMMENT

No one in the audience indicated a desire to address the Commission during this portion of the meeting.

STUDY SESSION ON 2010 COMPREHENSIVE PLAN AMENDMENTS

Mr. Cohn referred the Commission to the docket of Comprehensive Plan amendments that were adopted by the City Council in March and explained that the purpose of this discussion is to review the minor amendments and schedule them for a public hearing. The Commission and staff reviewed each of the amendments as follows:

1. ***Add language about the Ballinger Neighborhood in appropriate sections of the Comprehensive Plan where other neighborhoods are discussed.*** Mr. Cohn explained that the Ballinger Neighborhood was not part of the City when the introduction section of the Comprehensive Plan was originally adopted.

   Commissioner Moss asked why staff is proposing to eliminate the language that states that North City is located in the northeast portion of the Shoreline area. Mr. Cohn answered that the language was written before the Ballinger Neighborhood was annexed, and now it is actually located in the east central portion of the City. Commissioner Kaje explained that the northern boundary of North City/southern boundary of the Ballinger Neighborhood is very irregular. Commissioner Moss suggested the language be changed to indicate that North City is located south of the Ballinger Neighborhood. The remainder of the Commission concurred.

   Commissioner Moss suggested that the last sentence of the proposed new language should be changed by adding "in Shoreline" after "local neighborhoods." The remainder of the Commission concurred.

2. ***Modify the Land Use Map to reflect recent public ownership of parks and open space parcels and re-designate them as "Public Open Space."*** Mr. Szafran referred to the map prepared by staff to identify properties acquired, which have not yet been designated as "Public Open Space" on the Comprehensive Plan Map. In addition, some public lands have been labeled incorrectly, and this would also be corrected.

3. ***Remove all references to "Regional Business (RB) Zone" and replace with "Mixed Use Zone (MUZ)."*** Mr. Szafran explained that the Comprehensive Plan must be updated to reflect the City's recent replacement of the RB zoning with MUZ zoning.

4. ***Modify Land Use Policies 17, 18 and 19.*** Mr. Cohn pointed out that the current language in Land Use Policies (LU) 17, 18 and 19 does not explain the distinctions amongst the "Commercial"

Comprehensive Plan designations. Rather than listing appropriate zoning designations, staff is recommending additional narrative in LU 17 and 18 to provide direction for future development absent a subarea plan. He observed that, as currently written, the designations allow virtually the same uses. Staff believes the proposed narrative would provide better guidance when reviewing future rezone proposals.

Mr. Cohn explained that with the adoption of the Town Center Subarea, most of the property within the RB Comprehensive Plan designation would no longer have that designation. Therefore, it is difficult to justify the balance of the RB designation as being separate and distinct from the "Community Business (CB) designation. Staff is recommending that LU-19 be eliminated. This would change the Comprehensive Plan map to include a Town Center land use designation. The RB properties located to the north of Town Center would be designated as CB.

Commissioner Behrens referred to LU-18 and questioned why residential uses should be allowed in areas designated as commercial. He suggested the proposed new language for LU-18 should be placed in LU-17 because it is intended to support the MUZ zoning designation. He asked if there are other commercial designations other than CB. Mr. Cohn noted that the other "Commercial" land use designation is "Mixed Use" (MU). Commissioner Behrens questioned why CB must be included in LU-18, since it is adequately addressed in LU-17. Mr. Cohn explained that, at some point in the future, the Commission may re-designate land along Aurora Avenue North that is not part of Town Center as MU. However, at this point, they must make the Comprehensive Plan Land Use Map consistent with the Zoning map. Commissioner Behrens suggested the same reasoning would apply to the changes proposed for properties north of 185th, which currently are designated on the Comprehensive Plan Land Use Map as RB.

Commissioner Behrens summarized that he does not see a need for both the CB and MU land use designations since MU covers both types. He said he hopes that, at some point in time, they can create reasonable land use designations that actually describe what they are and what they can be used for. He suggested that a "Commercial" land use designation should exclude residential uses. If they are going to allow a mixture of uses throughout all the commercial zones, there is no need to make a distinction. Mr. Cohn agreed that would be a viable approach, but is something that would be more appropriately addressed as part of a general Comprehensive Plan update rather than a minor amendment.

Commissioner Kaje said that while he shares Commissioner Behren's suggestion that some land use designations should only allow commercial uses, he is not comfortable with the idea of having only one MU designation that applies to all commercial properties in the City. They need to provide some discrimination between properties on Aurora Avenue North and those in the "neighborhood centers."

Commissioner Kaje referred to LU-18 and said that even though they have talked about allowing very high residential densities in some places, he considers adding a unit count to the Comprehensive more than a minor amendment. Mr. Cohn responded that the intent of the proposed change was to delete the reference to "high-density residential," which some people have incorrectly

interpreted as a limit of 48 units per acre. Commissioner Kaje suggested the language be changed to read, "residential densities that are higher than what would be allowed in any of the exclusively residential zones." This would make it clear that densities could be higher than R-48, yet would avoid setting a fixed number. Commissioner Behrens suggested Commissioner Kaje's recommended language would be better placed in LU-17. Commissioner Kaje said he does not foresee the elimination of LU-18 at this point.

Commissioner Moss agreed with Commissioner Behrens that if LU-18 is intended to address the "Commercial" land use designate separately, it is a bit confusing to include language related to residential uses. She also supports Commissioner Kaje's recommended change to LU-18, since staff's proposed language could be interpreted to mean that 100 dwelling units is the new standard. She felt that this type of significant change should be considered as part of a Comprehensive Plan update rather than an amendment to clarify the language. Mr. Cohn said staff could support the modification provided by Commissioner Kaje.

Commissioner Behrens observed any reference to building and density could be eliminated from LU-17 by identifying potential zoning designations for the MU land use based on the criteria outlined in the Development Code. This would be vague enough to apply to all areas of the City where the MU designation is used. Mr. Cohn said that was the intent of the current language. However, the Comprehensive Plan language should help staff explain to applicants whether their proposed zoning is appropriate or not, and the proposed new language is intended to make this clear.

Again, Commissioner Behrens suggested that the size of the parcel, itself, would eliminate the ability to use certain MU property for any type of commercial or mixed-use application. Mr. Cohn pointed out that "size of lot" is not a criterion for zoning, and staff would like the Comprehensive Plan to provide more direction. He suggested that Commissioner Behren's concern could be addressed by combining LU-17 and LU-18 into one single section titled, "Mixed Use and Commercial Land Uses." He reminded them that staff is recommending that LU-19 be eliminated. Commissioner Kaje agreed that it is a problem that LU-17 and LU-18 basically say the same thing. He suggested that rather than eliminating any of the policies, perhaps the narrative should be changed to provide a clearer separation. He said he is uncomfortable with the idea of eliminating LU-19 and any reference to the RB designation. He said he is also uncomfortable with eliminating all references to zoning before the narrative is revised as part of the Comprehensive Plan update. However, until the update has been completed, there would continue to be a lack of guidance as to what they envision for each of the land uses.

Commissioner Kaje pointed out that LU-18 only allows limited industrial uses in CB designations. Therefore, eliminating the RB designation, which allows industrial uses, would a significant change. He cautioned that they must address industrial uses that are not considered risks to public health or neighborhood character. He suggested that perhaps LU-18 should be changed to make industrial uses more reasonable. Mr. Cohn agreed that if LU-19 is eliminated, LU-18 should be changed to address this issue.

Commissioner Kaje recalled that they are in the process of transforming Town Center, which could impact the vision for the surrounding properties. He cautioned that this set of amendments could lead to unintended consequences. Commissioner Behrens agreed. He suggested staff prepare alternative language for the Commission to consider prior to moving forward to a public hearing. Commissioner Moss agreed.

Chair Wagner cautioned that the Commission has discussed the issue of high density residential uses on numerous occasions, so further discussions would not likely result in a different solution. She suggested that Commissioner Kaje's proposed change for LU-18 could be considered a minor adjustment to clarify the policy's intent. Commissioner Kaje said he would support an amendment to modify the language in LU-18 as he previously proposed, but they should be even more specific to say that the density of dwelling units could exceed the densities that are permitted in the zoning designations identified as appropriate. However, he does not support additional changes at this time. He would rather have discussions about eliminating zoning designations and sections as part of the Comprehensive Plan update. Mr. Szafran summarized that, as proposed by Commissioner Kaje, the only change to zoning would be to replace RB with MUZ.

Chair Wagner observed that none of the Commissioners have voiced concern about the proposed changes to LU-17, which would eliminate reference to Point Wells and add new language related to transition. She suggested these changes should move forward to public hearing, as well. The remainder of the Commission concurred.

Commissioner Kaje said he suspects that some of the zoning designations were included avoid creating conflicts with current uses. He said it would be useful for staff to provide an analysis of potential conflicts. It may be possible to eliminate some of the low-density residential zones without impacting current uses. Mr. Cohn agreed to provide this information as part of the Commission's larger discussion in the future.

Commissioner Behrens pointed out that LU-18 does not include many of the commercial areas identified in the last paragraph of the "Commercial Areas" section on Page 22 of the Comprehensive Plan. He suggested there are likely CB designations in those areas, as well. Mr. Cohn agreed to review the language and make the appropriate changes for consistency.

5. ***Update the Shoreline Master Program Element Goals and Policies, Appendix 2 (1998 Shoreline Master Program Goals and Policies) and Appendix 3 (Shoreline Master Program Update Strategy).*** Mr. Cohn reminded the Commission that staff is in the final weeks of finalizing the draft Shoreline Master Program Update, and they anticipate presenting it to the Commission by the end of the year.

6. ***Adopt the Point Wells Subarea Plan.*** Mr. Cohn reminded the Commission that the Point Wells Subarea Plan has been adopted. The zoning is waiting for continued discussions with Snohomish County, Point Wells property owners, and the Town of Woodway.

7. ***Adopt the Town Center Subarea Plan and Remove Appendix 5 (Framework Policies for the Town Center Subarea Plan).*** Mr. Cohn reviewed that the Commission is currently working with staff on the Town Center Subarea Plan, and staff would come return in one month to continue their work.

8. ***Adopt the Southeast Neighborhoods Subarea Plan***. Mr. Cohn reviewed that the Southeast Neighborhoods Subarea Plan has been adopted and the Commission would discuss zoning to implement the subarea plan at their next meeting.

9. ***Modify Text in LU-43 regarding Public Health Lab to reflect it being a 12-acre site***. Mr. Cohn noted that the Public Health Lab Master Development Plan has been adopted.

   Commissioner Moss pointed out that modifying LU-43 to reflect the Public Health Lab as being a 12-acre site requires that they also reduce the size of the Fircrest site. Mr. Cohn agreed that should be part of the proposal. Commissioner Moss said she read through LU-43 and questioned whether "Food Lifeline" should be specifically called out in the policy language. Mr. Cohn noted that Food Lifeline is located on the Public Health Lab campus, but staff would review the language for consistency.

Mr. Cohn advised that a public hearing on the proposed amendments would be scheduled for November 4, 2010.

PUBLIC COMMENTS

No one in the audience indicated a desire to address the Commission during this portion of the meeting.

DIRECTOR'S REPORT

Mr. Cohn had no additional items to report to the Commission.

UNFINISHED BUSINESS

Mr. Cohn recalled the Commission's previous discussion about public outreach. As per the Commission's recommendation, staff is working on text to print on the reverse side of the Commission agendas to describe the various types of Commission proceedings and the rules for each. The document should be ready for the next public hearing. Commissioner Kaje said it would also be helpful for staff to provide text that could be read by the Planning Commission Chair to briefly describe the purpose and makeup of the Commission. Commissioner Behrens suggested refer to the announcement that was prepared by Ms. Redinger related to the Southeast Neighborhood Subarea Plan. It was very well done and could be used as an example.

Mr. Cohn recalled the Commission also expressed a desire to have some of their sessions "on the road." He advised that because of the logistical requirements, it would be very difficult to have public hearings on the road. However, it may be possible to have at least some of their study sessions on the road. Ms.

Simulcik Smith noted that study sessions are different than public meetings where citizens are invited to share their comments, and the type of meeting should be clearly described.

Commissioner Moss advised that the City of Seattle's Department of Neighborhoods has done an extensive outreach to obtain community input from typically underrepresented groups within neighborhoods. They found that the benefits of engaging the public far exceeded the logistical challenges of going to another venue.

Ms. Simulcik Smith explained that, based on the Commission's retreat discussion, staff would create a standard template for staff reports to ensure that project managers consistently provide the information the Commission wants. Commissioner Moss suggested that the problem statement should also include an executive summary. Commissioner Behrens suggested the staff reports also lay out both the pros and the cons of the proposals.

Mr. Cohn recalled the Commission also discussed the need to get the staff reports out early so that public comments could be submitted a week before the hearing. Chair Wagner recognized the Commission's concern that they are inundated with a lot of written public comments the day of a hearing. However, she cautioned that they should not create a process that appears to limit public comment. She suggested a better approach would be to encourage the public to submit their comments in time to be included in the Commission's packet by pointing out that the Commission may not have ample time to review comments that are submitted the day of the public hearing.

Commissioner Moss suggested it would be helpful to publish preliminary meeting notices to announce future agenda topics. Ms. Simulcik Smith said staff does provide information about upcoming Commission topics on the City's website. Commissioner Moss noted that the Commission has a full schedule in the coming months. Rather than cancelling meetings when an agenda is open, perhaps it would be appropriate to create a list of alternate agenda items to fill in the open space. Mr. Cohn agreed to consider Commissioner Moss' idea, particularly as they work on the Comprehensive Plan update in 2011.

NEW BUSINESS

The Commission discussed the idea of printing business cards that provide Planning Commission meeting information and the website address. They would not include individual names of Commissioners. They agreed business cards would be helpful and staff agreed to move forward.

REPORTS OF COMMITTEES AND COMMISSIONERS/ANNOUNCEMENTS

Commissioner Moss reported that she attended the Washington State American Planning Association Conference. They provided a lot of good sessions on a wide range of topics, and she attended sessions related to her particular interest in transportation. She also attended a session on civic engagement, which was incredibly well done. She attended the presentation by Director Tovar and found he was by far the best presenter in the group. He added a bit more "meat to the bone" than the other presenters, and those who attended came away with a much better understanding of the City of Shoreline.

AGENDA FOR NEXT MEETING

Mr. Cohn announced that the October 21st agenda would include a follow up to the Southeast Neighborhoods Subarea Plan implementation and zoning recommendation. A preview of the staff's recommendation is available on the City's website. The website encourages citizens to forward their comments to staff by next week so they can be included in the Commission's packet. The October 21st agenda will also include another discussion about the tree code amendments.

Mr. Cohn invited Commissioners to attend the Sound Transit Public Outreach Workshop on October 14th at the Shoreline Conference Center at 6:30 p.m.

Mr. Cohn announced that the Planning Commission is scheduled to meet jointly with the City Council on October 25th.

ADJOURNMENT

The meeting was adjourned at 8:40 P.M.

_____	_____
Michelle Linders Wagner	Jessica Simulcik Smith
Chair, Planning Commission	Clerk, Planning Commission

CITY OF SHORELINE

Memorandum

DATE: October 21, 2010

TO: Shoreline Planning Commission

FROM: Joseph W. Tovar, FAICP, Planning and Development Services Director
Steve Cohn, Project Manager, Senior Planner
Miranda Redinger, Project Manager, Associate Planner MR

SUBJECT: Southeast Neighborhood Subarea Plan Implementation Proposal

Background

The City Council adopted the Southeast Neighborhoods Subarea Plan as a Comprehensive Plan Amendment by unanimous vote on May 24, 2010. The next step in the process is to implement recommendations contained within the plan. On July 1, 2010, Planning Commission discussed implementation options that included:

1. Using existing zoning designations,
2. Creating new zoning districts, or
3. Utilizing Planned Areas.

On August 2, Commission discussed these options in a joint meeting with City Council. This report presents a staff recommendation that employs a combination of all three options that were presented.

Staff recommendation

Staff's proposal includes all three of the options summarized above. The proposal is shown on Attachment 1 and is explained below:

***Existing* zoning is retained for the bulk of the properties.**

The staff recommends no zoning change for the preponderance of the subarea. Attachment 4 shows areas where zoning changes are proposed.

One *new* zoning category is proposed - A less intense version of the Mixed Use Zone for parcels adjacent to 15th Avenue.

Staff's recommendation is to designate the area on the east and west sides of 15th Ave. (as shown in Attachment 1) as a Neighborhood Mixed Use Zone, with standards to be developed by staff for comment and deliberation at the public hearing. These standards will factor in suggestions we hope to hear from Commissioners.

Staff is proposing a version of the Mixed Use Zone that is more appropriate for a neighborhood commercial area in order to promote economic viability of redevelopment projects. Since the current zoning (Neighborhood Business) has not resulted in an appreciable amount of new development in this area over the last decade, staff concludes that the replacement zoning will need to provide an economic incentive.

One incentive could be increasing a site's development potential if it is developed as mixed use. Staff proposes a maximum building height in the new zone of 45 feet and a maximum housing density in the range of 60-70 units per acre. This height limit is less than the maximum 60 feet permitted in Community Business (CB) zones and the maximum density is somewhat greater than the 48 units/acre permitted in CB. Since the zoning intent is to encourage mixed use buildings, rather than purely residential ones, language could be added that would permit less housing density if it is entirely a residential structure (perhaps 48 units/acre) with the maximum housing density achieved only through development of a mixed use structure or complex.

To assist in crafting specific standards for this zone, staff asks for Commissioner's discussion on the following questions:

Should the regulatory language for a version of Mixed Use appropriate in neighborhood commercial areas mandate a specific maximum density and height or contain a range of height and density bonuses?

If redevelopment is to be encouraged, what are appropriate maximum heights and densities? What transition elements like stepbacks and landscape buffering should be used?

If height and density is tied to an incentive system, what amenities should be defined as incentives-- open space, affordability, green building, public art? Others?

Not recommended: Creation of a new R-36 residential zoning district.

The CAC also discussed the creation of an R-36 zone (i.e., a maximum density of 36 dwelling units/acre), thinking it would be an effective zoning transition

between R-24 (often built as townhouses) and R-48 (intended as an apartment zone). Planning staff conferred with the Economic Development Manager, whose initial response is that an R-36 zone would likely not result in development that is substantially different than would be achieved under existing categories, so creating such a designation would not be an incentive to development. Therefore, *staff is not recommending an R-36 zone* as an implementation option for the Subarea Plan.

One *Planned Area* is proposed, in the SE corner of the Subarea.

The concept of Planned Areas was not a model that was discussed during the Citizen Advisory Committee work; however, that does not preclude the Commission's consideration of the concept as an implementation tool. Staff held a community meeting to explain this option to residents on September 21st, so they could understand more about what Planned Areas can and cannot accomplish.

Staff is recommending use of a Planned Area in the southeast corner of the subarea, between Bothell Way on the east, NE 149th Ave. on the north, 30th Ave. NE on the west, and 145th St. on the south, because this area has been the focus of debate that dominated CAC and other public meetings about the subarea. The map in Attachment 1 depicts the boundaries of Planned Area 1 (and its subdistricts).

- PLA1a would contain regulations similar to the Neighborhood Mixed Use Zone, but with particular attention to vehicular access issues. It could also include language dealing with Transit Oriented Development (TOD) in anticipation of more robust transit systems that may be available in the area in the future. It could also be crafted to prohibit specific stand alone uses that are not desirable due to traffic generation or other impacts.

- PLA1b would be based on the existing zoning designation R48, but would likely include a height restriction of 40 feet to acknowledge neighborhood concerns about larger buildings blocking sunlight, etc. It might also be written to encourage uses such as offices and medical facilities as an adaptive reuse of single family structures, live/work lofts, etc.

- PLA1c, 1d, and 1e would focus on creating opportunities for a variety of housing choices that are compatible with neighborhood character, as well as transitions to adjacent uses, particularly the single-family zoning on the west side of 30th Ave. NE.

    - Residents have expressed an interest in revisiting cottage housing regulations for the subarea, and staff feels that this concept could be implemented in PLA1c. Staff proposes a base density of 12 units/acre (equivalent to an R12 zone), but to incentivize creation of

a clustered development, staff suggests that for such a project, a density bonus could raise the allowable density to 18 units/acre if the lot or combination of lots were at least 1/3 of an acre. Other allowed uses could include rowhouses, duplexes, triplexes, or other styles of "infill" housing, possibly with design standards, or other specific design-transition elements.

- PLA1d and 1e would be limited to the densities that would be permitted under the existing zoning of these sites- 18 and 24 units/acre respectively.

Next Steps

Staff requests that the Planning Commission provide guidance with regard to the questions and options posed in this report and set a public hearing date so staff may prepare a detailed recommendation on implementation of the SE Neighborhoods Subarea Plan before the end of the year.

ATTACHMENTS

Attachment 1: Staff Recommended Zoning Map
Attachment 2: Citizen Advisory Committee Zoning Map
Attachment 3: Minority Report Zoning Map
Attachment 4: Map of Proposed Zoning Changes
Attachment 5: Synopsis of Existing Mixed Use Zoning District
Attachment 6: Comment letters from John Davis and Jeff Mann

City of Shoreline
Geographic Information System

Southeast Shoreline

Proposed Zoning

Staff Recommendation

Project name: ZoningSEShoreline_1117_Stafft7.mxd
Plot date: 10/4/2010

Proposed Zoning

- R-4; Residential, 4 units/acre
- R-6; Residential, 6 units/acre
- R-18; Residential, 18 units/acre
- R-8; Residential, 8 units/acre
- R-12; Residential, 12 units/acre
- R-24; Residential, 24 units/acre
- R-48; Residential, 48 units/acre
- Planned Area 1-A
- Planned Area 1-B
- Planned Area 1-C
- Planned Area 1-D
- Planned Area 1-E
- Mixed Use Zone
- Mixed Use Zone Residential
- PA; Planned Area
- C; Campus
- NCBD: North City Business District
- O; Office
- CB; Community Business
- NB; Neighborhood Business
- I; Industrial
- CZ; Contract Zone
- City Boundary
- Open Water
- Planning Area
- Outside Shoreline
- Interstate
- Principal Arterial
- Minor Arterial
- Collector Arterial
- Neighborhood Collector
- Local Street
- Park
- Park Expansion
- Unclassified Right of Way
- Tax Parcel

0 140 280 560 840 1,120 Feet

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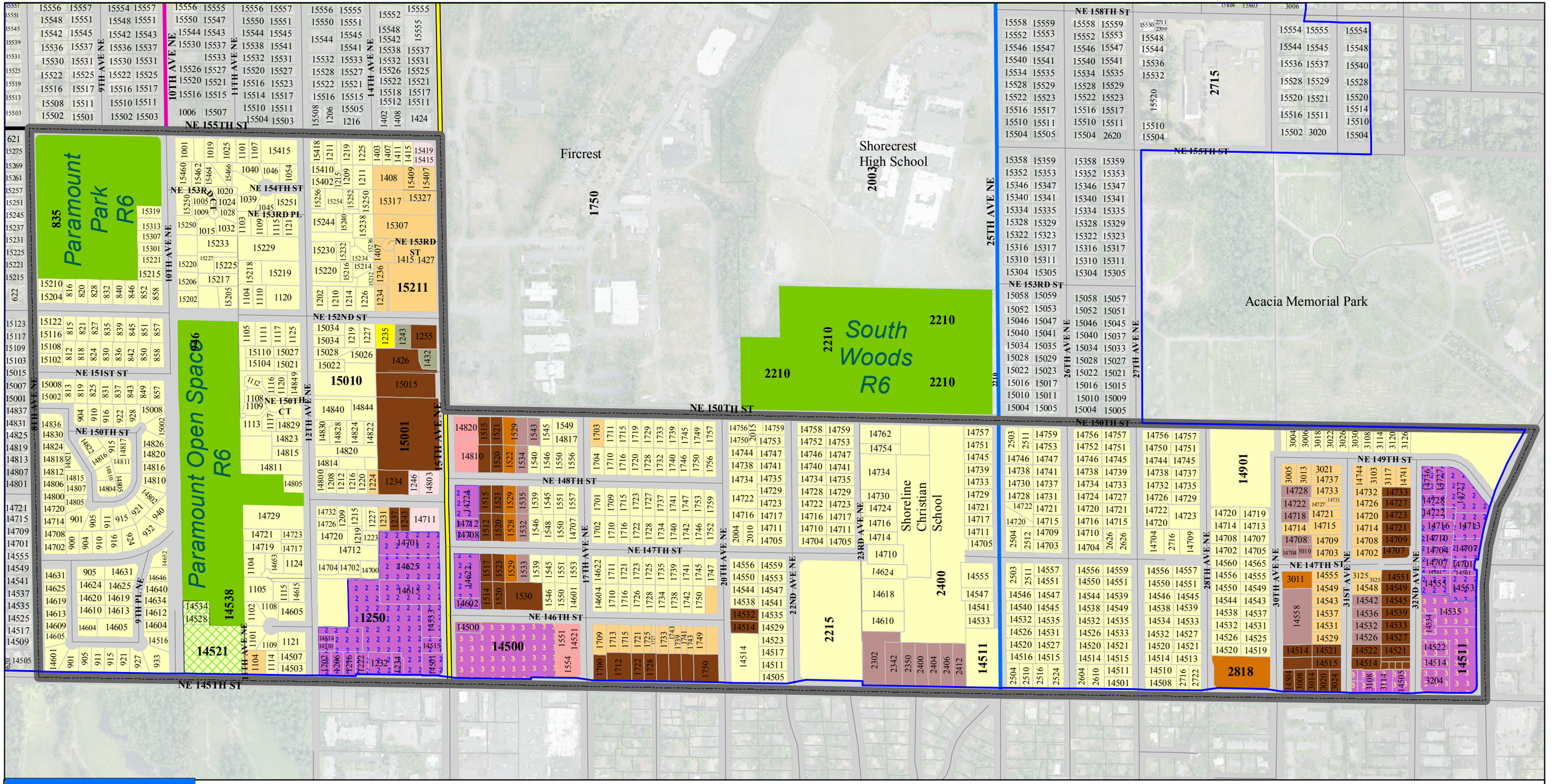

City of Shoreline
Geographic Information System

Southeast Shoreline

Proposed Zoning

Final Option

Project name: ZoningSEShoreline_11_17_Opt6.mxd

Plot date: 11/2/2009

Zoning Designation selection

- R-4; Residential, 4 units/acre
- R-6; Residential, 6 units/acre
- R-48; Residential, 48 units/acre
- Residential, 32 units per acre
- R-24; Residential, 24 units/acre
- R-18; Residential, 18 units/acre
- R-12; Residential, 12 units/acre
- R-8; Residential, 8 units/acre
- Mixed Use 3
- Mixed Use 2
- Mixed Use 1
- PA; Planned Area
- C; Campus
- NCBD: North City Business District
- O; Office
- CB; Community Business
- NB; Neighborhood Business
- I; Industrial
- CZ; Contract Zone
- City Boundary
- Open Water
- Planning Area
- Outside Shoreline
- Interstate
- Principal Arterial
- Minor Arterial
- Collector Arterial
- Neighborhood Collector
- Local Street
- Park
- Park Expansion
- Unclassified Right of Way
- Tax Parcel

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Fircrest

Shorecrest
High School

Acacia Memorial Park

Paramount
Park
R6

Paramount Open Space
R6

South
Woods
R6

Shoreline
Christian
School

City of Shoreline
Geographic Information System

Southeast Shoreline
Minority Report
Zoning Recommendation

Project name: ZoningSEShoreline_E_Opt6.mxd

Plot date: 2/4/2010

Minority Report Zoning

- <all other values>
- R-4; Residential, 4 units/acre
- R-6; Residential, 6 units/acre
- R-48; Residential, 48 units/acre
- Residential, 32 units per acre
- R-24; Residential, 24 units/acre
- R-18; Residential, 18 units/acre
- R-12; Residential, 12 units/acre
- R-8; Residential, 8 units/acre
- Mixed Use 3
- Mixed Use 2
- Mixed Use 1
- PA; Planned Area
- C; Campus
- NCBD: North City Business District
- O; Office
- CB; Community Business
- NB; Neighborhood Business
- I; Industrial
- CZ; Contract Zone

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CITY OF SHORELINE

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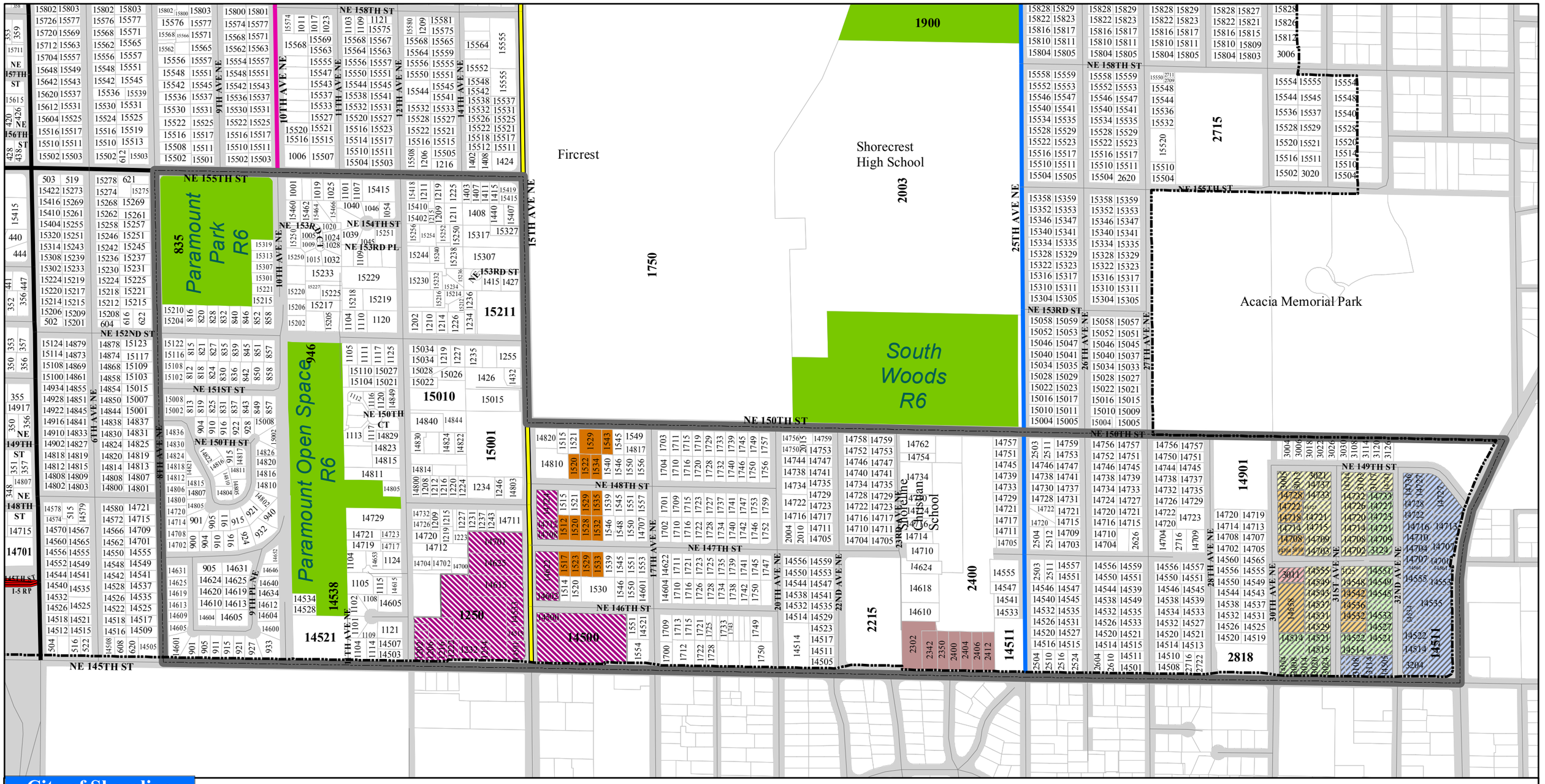

City of Shoreline
Geographic Information System

Southeast Shoreline

Project name: ZoningSEShoreline_1117_Stafft7b.mxd
Plot date: 10/4/2010

Proposed Changes to Current Zoning

Staff Recommendation

Proposed Zoning selection

- R-18; Residential, 18 units/acre
- R-24; Residential, 24 units/acre
- Planned Area 1-A
- Planned Area 1-B
- Planned Area 1-C
- Planned Area 1-D
- Planned Area 1-E
- Mixed Use Zone Residential

- City Boundary
- Open Water
- Planning Area
- Outside Shoreline
- Interstate
- Principal Arterial
- Minor Arterial
- Collector Arterial
- Neighborhood Collector
- Local Street
- Park
- Unclassified Right of Way
- Tax Parcel

0 155 310 620 930 1,240 Feet

CITY OF SHORELINE

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Synopsis of Existing Mixed Use Zone

The existing MUZ, adopted by Council in October of 2009, provides density and height bonuses based on amenities provided.

- Permits a *base height of 35 feet and 48 dwelling units/acre* for a purely residential building, but developers are required to provide a prescribed amount of open/gathering space even at this minimum height and density.
- If the project is *mixed use*, it can be up to *45 feet in height and 70 du/acre*.
- If the building meets *green building standards* and additional *open space requirements*, it can reach *55 feet and 110 du/acre*.
- If it fulfills requirements for *affordability*, *more stringent green building standards*, and the developer holds a *neighborhood meeting* to address concerns of nearby residents, it can reach the *maximum height of 65 feet and density of 150 du/acre*.
- Any part of an MUZ building within 100 ft. of Low or Medium Density Residential zoning districts is limited to 45 feet in height, and any portion within 200 ft. of such zoning is limited to 55 feet in height, regardless of amenities provided.

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PO Box 95961
Seattle, WA 98145
October 13, 2010

Shoreline Planning Commissioners
City of Shoreline
17500 Midvale Avenue N
Shoreline, WA 98133

Dear Ladies and Gentlemen:

I am writing about a subject that is of real significance; both to me as an individual, as well as to the City of Shoreline. Most people recognize me as a straight shooter, so please allow me to conserve your and my time by immediately getting to the heart of the subject as quickly as possible. But because it is important to know where I am coming from, first you need to know just a little background.

I am a full time employee at the University of Washington. I hold rental properties to supplement my academic income. Before I purchased two properties in the Briarcrest neighborhood of Shoreline, I made two visits into the Planning and Development Office. I was told by two different individuals that obtaining zoning upgrades to R24 from the then current R12 zoning would be easy and fairly straightforward. My plan of action was to build two quality fourplexes and utilize them as long term rental units. It all penciled out just fine, thus I closed on both acquisitions.

Because I am such a busy fellow, I did not get underway immediately. Especially since one of the properties needed some work to make it livable so that it could produce some income while obtaining permits, financing, etc. The other property was already unlivable due to a mold problem. Before I could initiate my projects, I learned that the City decided to place the Southeast Corner of the jurisdiction into the hands of a Citizens Advisory Committee AND that applying for a zoning upgrade would essentially be fruitless as long as the committee was in session and the issues remained unresolved.

I followed the work of the Committee closely, both from near and far. I attended approximately 50 % of the meetings so that I could understand what was, or was not, going on, and why, and what the likely time frame would turn out to be. I believe that everyone who knows the Committee's excellent work would today express some degree of surprise that this process has been ongoing for approximately two and a half years, and still we do not have a zoning map. The Committee's report is an excellent example of slow democracy in action. It is thoughtful, comprehensive and carefully done.

Enough background; lets get to the heart of my profound concern. Eighteen months of negotiated, mostly congenial committee work broke down during the lost night of work. The committee had already put in long and hard hours of attentive work, with

the committee meeting more and more frequently towards the end in the hopes of finishing up their task. On the last night, a couple of members were unable to attend. One of the members who had consistently supported rational density increases was so ill that he did not remember to pass his voting rights on to a like minded committee member. If he had been present, or had given his proxy, the Committee's "suggested zoning map" would have wound up looking somewhat different. Even with the committee's make up that night, my two lots, at one point well beyond the half way into the evening, did have designations of R24. But those favoring lower, or no density keep chipping away at anything that even hinted at a higher density. Congeniality finally broke down, and measurable frustration surfaced. Several more motions and votes were taken, and then a map that violates the generally agreed upon goals of the comprehensive neighborhood plan ended up being the final product of the Committee.

Why do I say that the recommended map misses the mark? The Committee, as a whole generally agreed that is was desirable to establish smooth transitions of decreasing density moving westward from Bothell Way, and northward from 145th Street. Planned Areas 1a (in the blue) and 1b (in the green) fully satisfies that desired and worthy goal. In fact, most of the Committee voted in favor of that "mapping" element.

Now look at the contorted shaped "T" denoted as Planned Area 1c (in the yellow). The lots adjacent to 149th are currently zoned as R12. Since they are across the street from single family homes, R12 is the natural first step in increasing density. I do not have a lot of argument with that approach even though 14744 is mine and I am a very short distance from the recommended R48 on 32nd Ave NE (which is somewhat less than a smooth transition), and even though I had been told by Shoreline officials that I could easily become a R24. (A nicely designed tri or four plex could be built on that corner lot with tightly architectural integration into the neighborhood so that it would appear to be a duplex from NE 147th and a duplex from 31st Ave NE; thereby preserving the character of the neighborhood. Now that we have looked at the top of the "T", let's next look at the leg.

The upper portion (north of 147th) of the leg on either side of 31st Ave NE is 'hemmed in' by R48 on the east and R18 on the west. The recommended R12 designation is not smooth transitioning, especially east of 31st Ave NE where we find R12 against R 48. South of NE 147th Street, the first two lots on the east side have R48 against R12; and to the west we have two more R12 lots against R18 or above. Further down the leg on just on the west side of the street now, we have R12 against R18 once again. Not smooth! The last lot bearing house number 14529, which happens to be mine, is slammed up against R48 on the south, R18 behind, and R18 across the street. Is this not in violation of the Committee's Plan for the neighborhood's goal of smooth transitioning?????

I have two suggestions on how to FIX this flawed mapping:

1) Lots 14526, 14529, 14531, 14532, 14536, 14537, 14542, 14543, 14548, 14549, 14554, 14555 and 3125 should all become R24. That provides smooth

transitions from the R48 to the east AND the R48 to the south; and provides a smooth transition in the middle of the block where it is even less noticeable to the R18 on the west, using the natural boundary of NE 147th to the north. This approach to smooth transitions from both the east and the south allows for a slight increase in density and cleans up the prior "spot zoning" that Shoreline inherited from King County. It also fits the original Comprehensive Plan that indicated the area is a natural fit for moderate residential density. Another option for this action would be to change the upper portion of the leg of the "T" to R18, leaving the northern tier of lots being R12, serving as the last step down in density for the single families to the north. Making these lots R18 would **not** increase the density very much at all since the lot sizes would limit future projects to a triplex.

2) Another "fix" would be to change the above list of lots to R18. This would be another natural fix and fit since the southern most lots on the above list already lie between **existing** R18 designations, once again using NE 147th as a natural break in the transition of density.

To not "fix" the zoning map in one of these ways leaves Shoreline with the unintended consequence of communicating to the development community that the City has no interest in reasonable and moderate growth, and that they would be better off doing business elsewhere in the region. This very long process of cleaning up King County's prior mess is already communicating that very message to the world. At the very least it is creating financial hardship for myself, and denies me and others from enjoying the same densities that our very near neighbors enjoy. There is actually a very basic question of "fairness" in these considerations. Leaving a narrow band of R12's in the midst of R18's, and higher, makes very little sense to rational thinkers. It truly cries out to be fixed!!!

I would like to thank the Planning Commission for their service to the Shoreline community at large. And thank you for giving this serious matter your serious and careful attention.

Sincerely yours,

John A. Davis
Shoreline Stakeholder

To: Shoreline Planning Commission Members
October 12, 2010
Regarding the SE Subarea Zoning Map

Summary: I was a member of the SE Subarea Citizens advisory committee. As a long time local Realtor, and 20+ year Shoreline resident, I am excited, that we as a community and City have a rare opportunity to make the right choices to enhance our neighborhoods, and attract new business and jobs over the next 20 years. I am disappointed that this has been excessively delayed beyond the original 6-12 month estimated timeframe I was given in Dec 2005. It is very sad that a the few CAC member-supporters of the minority report from earlier this year, have been able to undermine the city's process, sabotage the Citys' Briercrest goals, and override the long standing comprehensive plan for 12 years, using less than fair and appropriate tactics. Lastly, there are serious concerns per staff, that many of the property owners have not received proper notice and equal opportunity to have their voices heard regarding the subarea changes. If they had been properly notified, the entire landscape of the CAC, sub area plan, and zoning map would have changed dramatically in favor of the greater density or more, of the current long term comp plan.

Issues Addressed: The Citizens Advisory Committee has addressed most if not all of the Minority Report supporters, hereafter referred to as adg's (anti-density-group) concerns thru the public meeting and committee process. By the way, due to their tactics, they are not in the minority. Following are quoted bulleted points are from City staff)

- "The section labeled "Troubling Assumptions" lists assumptions that were not discussed by the committee.
- "Use of incendiary language, such as "[Residents] are not in favor of adding residential density that destroys the existing social fabric of the neighborhoods" does not reflect committee debate and recommendations on how to balance potential new development with quality of life considerations and neighborhood compatibility that were a major focus of committee work." (above quotes are verifiable by staff, public record, and minutes).

Most Important CAC Concerns: In the beginning the adg's started out as the majority, and as the process developed and the committee focused on the key areas of importance being

1) Third place public gathering spaces, 2) Amenities, and 3) Character of the Neighborhood.

CAC members then realized the benefits of:

1) Redevelopment opportunities to attract new businesses and residents to support them,
2) The character of many neighborhoods were in need of a facelift,
3) Affordable housing possibilities
4) Diverse inventory of housing options.
   Additionally, most (except adg's)of the CAC also came to realize that the amenities such as sidewalks trails, lighting etc., need funds from development because according to staff, the general fund is not for those purposes.

Character of the neighborhood: The Committee agreed there are many areas within the SE subarea worthy of maintaining character. The adg's were unwilling to agree that there are several that were not. The main area of concern is between 30th Ave NE, and Lake City/Bothell Way, and NE 145th north to the cemetery. The best way to see it is on foot. I strongly recommend that you each take a walk for a few blocks in those areas and you will find: Substandard Housing, Violations of Health Dept Habitable standards, obvious lack of Pride of Ownership, Lowest Home Values in Shoreline (see example below), Health and Safety issues, major Deferred Maintenance, Blight, and High Crime Rates. What of these characteristics are so precious to maintain?

Comp Plan: The long standing comp plan was drafted by many smart and experienced people, including some professional planners with excellent skills, insight, knowledge, experience, and professional training. There is much wisdom in that plan and its goals for high density in the area from 28th NE (already multi family) east to Bothell /Lake City way, and from 145th north to the cemetery. I can't imagine the cemetery residents would object to some increased density. There are also other areas addressed in the plan that hold much wisdom and merit.

Experts Agree on 3 Key CAC Issues:

1) **Economic Development**:
   - After hearing the city economic development managers' presentation explaining the benefits of Economic Developments the CAC, the members became more favorable to ideas around Economic Development.

2) **Number of Units**. Following is a direct quote from city staff;
   - "The Minority Report repeatedly states that the City had a target of 150 new units. However, staff reiterated on several occasions during CAC meetings that the City had no pre-determined target for new units, that the State's population projections are subject to change over time, and that the subarea would not be assigned a definitive percentage of the GMA number. Members of the CAC asked for a specific number of units that would be their proportionate share by land mass of the overall growth target, so that is where 150 units came from, but it was an assumption to use in postulating various scenarios, not an assignment.
   - **Potential Density:** The Minority Report assumes that potential density will be built to capacity, regardless of the fact that current zoning has not been, nor have rezones close to the subarea realized their full capacity. North City was rezoned about 10 years ago to allow 900 additional units over 20 years. At this point, one could assume that 450 units would have been built, but only 100 have."

3) **Traffic concerns:** Because the adg's raised the concern of additional traffic, The CAC requested a professional review by John Marek, PE, Traffic Engineer Shoreline Public Works Department the City who states "So if volume were to double then these streets would still be well within acceptable traffic levels for their "Local Access" classification" but again, the adg's disagree with the experts. (traffic report available from City staff)

Notice deficiencies: I had raised the issue of problems with notifications to property owners several times during the life of the committee, which were added to the minutes. Besides the notice concerns, the adg's were out door knocking the neighborhood, mailing newsletters to the residents, and holding meetings (some in violation), with the main goal of "fear mongering". All without any notice or equal opportunities to the non-resident sub area property owners. I have no objection to those methods of involving the interested parties, as long as they are offered equally to all parties with vested interests. Sadly, the non-resident owners never received anywhere near equal opportunities, as part of the adg's plan. Had those owners had the same opportunities, the landscape of the committee, public meetings, comments and thru to attendance on the February 4th 2010 meeting would have been drastically different, rather than the adg's inherent biases towards anti density. It should also be pointed out that those non-resident owners also have constitutional rights to develop their property, which may not be restricted without due process. Do you think the above would pass the due process criteria of Land Use and Constitutional Lawyers?

There are many investor-owners not residing in homes in the SE corner. There appear to be over 75 such owners in SE corner. Many of those bought their property for investment/development purposes based on the long term comp plan and the Planning depts. guidance that this area 'would be rezoned for higher density. Likewise, most of the adg's bought or rented their property 'subject to' the long term comp plan and planning dept's vision of higher density. A little due diligence on their part could have helped guide them to make a better purchase or rental decision more consistent with their longer term neighborhood goals.. The biggest concern is that by the city's own admission, the investor/owners not occupying their property never received proper notice. If they had, the Subarea CAC group and public would have seen a much different landscape that would have yielded a map more consistent with the long term comp plan.

Concessions: The CAC members made too many concessions and compromises to try and accommodate the adg's and their issues. It became obvious that the only way we, as the CAC could reach an outcome, and deliver a report to the city was to concede on many points.

Density Voting Record: If you look back at the CAC voting record you would see that there were many more members voting for increased density in certain parts of the subarea. In fact the committee had voted and approved a zoning map in the late summer of 2009 (with higher densities than the current map presented to you by CAC). Even that map of the summer, had toned downed densities due to ongoing pressure on the undecided CAC members. With that said, again the adg's wanted to revisit the summer map again, after that vote. The adg's then somehow managed to get that summer map to serve as starting point from which to negotiate more reduced densities, so of course the density was cut yet again. Due to the adg's intimidation and peer pressure tactics, and the voting process, the CAC members had little choice other than to accommodate the adg's, or drag the committee on for another year or more. Their stalling tactic again prevailed, and the zoning map density desired by the CAC was again compromised. In hindsight, on the day of

Tactics: Some of the tactics employed by the adg's consisted of divide and conquer, intimidation, fear mongering, peer pressure, stalling, sabotaging the system, violations of the public meeting act, pressuring /haranguing CAC members, City, and elected officials. They have used these techniques to become a community majority, sadly for the wrong reasons. One adg even told me that due to her husbands health issues, they would be moving in the near future and didn't care what happens to the SE area after that.. (why even be on the committee with a philosophy like that?) On several occasions over the last 24 months, I learned of a flyers, door knockers, and private meetings invitations that were brought to my tenants at the front door of my property, as well as distributed/promoted to the neighborhood. I and others never received any such notices or invitations at our addresses of record. Nor did we receive invitations or notice.. A slip up? I think not.

Civic Deterrence: This process was not a positive and productive experience due to the adg's and their tactics, they have deterred myself and others from wanting to volunteer for other City programs and committees in the future. This delayed process has also cost many of us a great deal of time and money. Many are now facing the possibility of foreclosure, as a result of these delayed proceedings.

Challenge: My challenge to the Planning Commission and City Council is to 1) Review the existing comp plan, 2) take a walk through some of the areas in question. 3) Continue thinking about the benefits higher density (in the proper neighborhoods) could provide for the future of the city, and the good of the people, 4) don't succumb to the tactics or external pressure from the

adg's, and 5) Make the right and final choices for the Briercrest subarea for the next 20 years in a timely fashion, so we won't have to revisit this again.

My Sincere Thanks to you All.

Jeff Mann

Disclosure: I do own a home in the subarea. I bought it in December 2005 with the intention of development. My decision was directly based on the long term comp plan, and information from the city planning dept that it was to be rezoned high density with 6 months to a year. I was not told of the adg's and their long standing battle for no change. There are also numerous other non resident investors who bought with the same understanding over the last 20 years based on the long standing comp plan and city's guidance.

As a local Realtor, upon your request I am happy to provide examples of depressed property values in the SE corner of the Briercrest subarea due to the challenged neighborhood. Comparable property in other Shoreline neighborhoods would sell on average for 15-20% more than the SE corner of the Subarea

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CITY OF SHORELINE

Memorandum

DATE: October 21, 2010

TO: Shoreline Planning Commission

FROM: Joseph W. Tovar, FAICP, Planning and Development Services Director
Paul Cohen, Senior Planner PLC

RE: Proposed Amendments to Tree Conservation, Land Clearing, and Site Grading Standards – Section 20.50.290

At the July 1 meeting staff, presented proposed tree code amendments at a study session (Attachment 1). During that meeting key issues were raised regarding the administration of tree removal permits, adequacy of the tree replacement, and incentives for existing, large tree preservation. Staff will address these October 21st as well as other relevant information and clarifications.

Tree Removal Permits – Based on the proposed minimum tree size of 2 inch diameter, the Commission discussed the difficulty with requiring permits for small tree removal. This could mean relatively large fees and possibly more tree removal without a permit and subsequently more code enforcement.

One approach is that all tree removal involving trees less than 8 inches in diameter would not require a permit and fee but would require submitting a simple declaration of code compliance and survey of tree credits remaining on the property. (Currently, the City does not regulate conifers under 8 and deciduous 12 inches in diameter.) These declarations would be in the City's data base and provide staff with information responding to future complaints about illegal tree removal. Removal of trees 8 inches or more would require a permit that is based on one hour fee. The fee could be greater if review of the permit becomes more time-consuming.

A second approach is to not regulate or require any application of submittal the removal of trees less than 8 inches in diameter. Even an over-the-counter (OTC) permit to handle these declarations, file them, and respond if there is a complaint or violation would cost the applicant about an hour of staff time. Staff recommends exempting trees less than 8 inches and allow them to be used as part of the minimum tree credits.

Incentives for Large Trees - The proposed incentive would give disproportionately greater credit to larger tree retention. Beyond that, the City does not propose a

preservation requirement. The concept of OTC tree removal permits become less practicable if existing trees are required to be retained because the time and dollar costs of the review, inspection, arborist reports, and bonding. Such expense may be reasonable for new development, but we believe is out of proportion for existing properties whose owners want to remove a few trees.

If the City wants to substantiate and require existing trees to be retained it will require more extensive review. This reduces the home owner's tree choice and the flexibility of the credit system. How long would the designated tree be protected? If a property owner applies to remove an existing tree a year later or, if applicable, after a maintenance bond has expired then the initial requirement to retain the tree could prove ineffective because the conditions and the Director could change.

Staff believes that the City should decide which is a higher priority the preservation of large trees or to increase the city-wide canopy. Large trees are a part of the canopy but smaller trees provide the secondary canopy that will replace dying tall trees in the next generation. Older and taller trees are more likely to be diseased and damaged and therefore are more likely to be considered hazardous. Staff recommends keeping the proposed incentives or increasing the credits for larger trees.

Tree Replacement – The proposed tree replacement requirement is not based on the trunk mass of the removed tree. This is because the tree credit table is biased to give disproportionally more tree credits for preserving larger, existing trees as an incentive. The table in reverse calculates tree replacement, which is biased to smaller trees so that the tree trunk mass of the removed tree will be greater than the sum total of the replacement trees. However, over time the growth of replacement trees will exceed the growth of an existing tree. Staff recommends keeping the proposed replacement table.

Hazardous Trees – The Commission suggested that trees removed in emergency situations due to natural causes should not require replacement trees. Also, the proposed draft no longer needs to address potentially hazardous trees because they are part of the tree credit calculation. However, the Critical Area Ordinance (CAO) references the tree code to address potentially hazardous trees in Critical Areas. Staff recommends that the CAO no longer reference the tree code and be amended to address hazardous trees separately because those trees cannot be removed unless they are hazardous to life and property.

Circumference Not Diameter - Staff recommends converting the proposed tree diameters sizes to tree circumference sizes because it will be much easier for the homeowner to measure their trees with a common tape measure rather than a specialized arborist tool.

Tree Definition – Smaller trees tend to cross over with large shrub species or hybridized ornamentals and taller trees are likely to have larger canopies. Many species will be about 15 feet in height when the tree diameter is 2 inches. This will mean that more small ornamental species will be discouraged as a replacement tree. Staff recommends that the definition of a tree include the potential for a 15-foot height rather than the proposed 10-foot height.

Forest Management Plans – A city-wide forest management plan had been mentioned by some Commissioners as an alternative to a tree code amendment. The City has spent $50,000 on 4 plans for the parks department. At this point there is no funding to implement these plans. Plans usually included an inventory of all vegetation types, test plots, and make 15 to 20 year recommendations to implement. These plans are feasible because they involve one property owner and one manager.

A city-wide plan is not feasible because of the cost and the issues that would arise as the city tries to inventory, classify, and implement on private properties. Because the vegetation mosaic, canopy type, and conditions vary from site to site it is problematic and not equitable to implement on private property.

Staff recommends that the Commission first complete the tree code amendments and, if a city-wide management plan remains important, make recommendations to the Council to pursue a city-wide forest management plan as a separate project.

Shoreline's Engineering Development Guide - As an incentive to plant or retain trees, the City's proposes development guidelines that use new and existing trees as credit toward flow control calculations. This will apply to larger development projects and not single family development.

In addition, the guide will recommend specific construction standards (species and spacing) for the planting, placement, and protection of trees in the Rights-of-Way. Currently, trees may be removed from the right-of-way in conjunction with development proposals to accommodate required utility or driveway improvements. Tree removal is not allowed unless there are unsafe conditions that require corrective action. Trees that may be hazardous are assessed by an independent arborist and can be removed if so determined. Trees impacting pedestrian pathways (up-lifting of sidewalks) will be reviewed by an independent arborist for root pruning first. The City makes an effort to replace that tree with a new one in the same location, or if not possible, nearby. If the tree cannot be retained then it will be removed and replaced.

Street trees and trees in the rights-of-way are not addressed in either the current or proposed tree codes because both codes required calculations based on lot area, percentages, and tree inventories. The City's rights-of-way are all connected and considered one property. The Public Works Department takes the reasonable and compatible approach of not removing or pruning trees unless they are a hazard or damaging to infrastructure and then replacing any removed trees. Street trees are only included in the development code as a substitute for front setback landscaping. Otherwise, street trees are administered using the Engineering Development Guide.

Canopy Survey – Staff is starting the selection process for a consultant to measure tree canopy using state grant money. We are hoping for the survey to be completed by the end of 2010.

Public Education - Staff recommends that the City provide outreach education to the community on tree health and the new tree code through community meetings, City's Currents and website, and information handouts.

Next

Staff would like the Commission's direction on the above issues prior to revising the proposal. The Parks Board will be informed of the above issues and invited to submit comments and to testify at the Commission's public hearing. Staff would like to plan a November public hearing.

Attachment

1. July 1, 2010 Staff Memorandum to Planning Commission (only includes attachment 1)

Memorandum

DATE: July 1, 2010

TO: Shoreline Planning Commission

FROM: Joseph W. Tovar, FAICP, Planning and Development Services Director
Paul Cohen, Senior Planner

RE: Proposed Amendments to Tree Conservation, Land Clearing, and Site Grading Standards – Section 20.50.290

At the July 1 meeting, staff will present its proposed tree code amendments at a study session. Depending on the complexity of discussion and the Commission's direction, staff may return for additional study sessions prior to setting a public hearing on the draft code amendments.

The last time the Planning Commission held a study session regarding the tree code amendments was September 2009. This report will contain some of the earlier background information because it has been several months since the topic was last discussed and two new commissioners have been appointed in the interim. Though the amendments focus on the Tree code there are amendments to the Clearing and Grading portion of the same subsection. In addition, staff proposes ancillary and consistency amendments to the Definition, Landscaping, and Critical Areas codes because they address trees or clearing and grading.

Background

January 2009 – City Council direction to resolve 9 tree code issues.

February through September 2009 - 5 Planning Commission study sessions were held on this topic. The minutes and staff reports are online at http://www.cityofshoreline.com/index.aspx?page=501. In summary, the Commission discussed:

- Council direction for 9 decision-modules (Attachment 1);
- Tree codes from Lake Forest Park, Bellevue, and Edmonds as well as proposals from the Innis Arden Club and a shoreline citizens group;

- Attributes of vegetation, tree coverage potential, solar access, large tree specimens, natural systems, transfer of tree replacements, canopy coverage, park land, hazardous trees, and landmark trees;
- Recommended language for the purpose section of the code; and
- Attributes of a tree credit system.

April 22, 2010 - Joint Planning Commission and Parks Board Meeting: Discussed the tree code as it affects the City's park property.

May 10, 2010 - Council Code Amendment Update.

Public Comments

The City has received public comments at two community meetings with approximately 75 attendees, 5 Planning Commission study sessions, and through approximately 60 comment letters. All these comments are available on the City's website links http://www.cityofshoreline.com/index.aspx?page=501 . Below is a summary of the comments from the 2 community meetings.

- Trees make property more valuable.
- Views make property more valuable.
- Want the right to cut trees on my property if I want.
- Prefer more sunlight and don't want to live in a dark forest.
- Greater housing density with greater tree preservation is going to force buildings to be too tall.
- Trees are essential to the health of the environment.
- Hazardous trees will kill people and be a liability.
- Topping trees will force trees with multiple leaders and become dangerously top heavy.
- Trees have a positive effect on the entire community.
- Use scientific data of tree attributes to determine their value and regulation.
- Different tree standards are needed for different neighborhoods or zones.
- Deal with trees that affect property but are outside property line.
- Retain large trees.
- Consider tree functions.
- Exempt exotic trees.
- Recognize covenants.
- Don't recognize covenants.

Context and Indicators

- Natural Resource Regulation –Natural resources are difficult to regulate when there are many thousands of trees that are growing or dying in Shoreline and that most property owners are unaware of the tree code. The tree code only regulates tree removal on private property and public lands – but not in city rights-of-way. Since there is no real certainty of the condition of trees in the City it is important

to have confidence that we are keeping and replenishing a reasonable tree canopy while allowing people to build on the property and manage their trees.

- Vegetation and Trees – All vegetation have the same environmental attributes and, though weighted differently, they all contribute to the environmental health of the City. Plants such as grasses, vines, shrubs, and trees have the same attributes of erosion control, water absorption, carbon sequestration, wildlife habitat, oxygen producing, etc. Trees have an important role in the diversity of plant communities along with other types of vegetation. A recent city study showed that the potential, city-wide impervious surfaces could be 60%. This allows the remaining 40% to have vegetative coverage including trees.

- Canopy Net Loss or Net Gain – Whether there is a net loss or net gain in Shoreline's tree canopy, at this point, is difficult to determine. A lot depends on the canopy survey and which time period that is compared to. Prior to Native American settlements the City was covered with trees. Native Americans burned and cleared large (not the majority) areas for agriculture. 85% of Shoreline was logged between 1887 and 1910. Stump farms emerged with some tree canopy rebounding between 1910 and the 1930's.

  According to the 2000 U.S. Census, 5% of existing housing stock was built before 1940. 60% of the City's existing housing stock was built between 1940 and 1970. Another 29% was added between 1970 and 1990. Another 6% was added between 1990 and 2000. By the year 2000 Shoreline's first tree code was adopted and 95% of our housing stock had been built.

  This year the City conducted preliminary canopy surveys using GIS aerial photography. Each survey was based on 600 random samplings. Unclear samplings resulted in a +/-3% margin of error. The City surveyed the canopy in 1999 and 2009 aerials because they have same high-resolution and the same person analyzing the samples. The surveys showed that both years resulted in a city-wide tree canopy of 36%. Though the tree canopy percentage is not definitive, the lack of change between the 1999 and 2009 Shoreline surveys indicates that the canopy may not have declined over the last 10 years.

  Some of the survey's indicators may be supported by another factor - the rate canopy removed each year versus the rate of canopy growth from the thousands of trees in Shoreline. A tree being cut is a striking image. Tree growth is slow, widespread, and hardly noticed. In 2008 approximately 160 known, significant trees were removed including approved, hazardous, and illegal trees. In 2003 the City's rights-of-way, alone, were surveyed with 14,226 trees comprising 19% of the City land area. Again, the indicators are not definitive but the data may support the two city-wide surveys.

- Trees in Rights-of-Way – The tree code does not apply to the City's rights-of-way. The planting and replacement of street trees are administered by the City engineering standards and guidelines. The current policy is to plant street trees when frontage improvements are made and replaced street trees when they are removed for street improvements, utility maintenance, and public safety.

The City conducted a street tree inventory (14,226) and management plan in 2003. It recommended a program to replace and plant additional trees in the City's rights-of-way. However, there is no street tree planting program nor funding to actively plant trees beyond what is required with frontage improvements and replacements.

- City Park Property – All park properties are in either R-4 or R-6 zones. Tree canopy on Park property can vary widely from all playfields (Paramount Park) to completely wooded (Innis Arden Reserve). The Planning Commission has expressed that the City should set a higher example of tree retention and that parks are a large part of the City's tree resource.

Clear and Grading Amendments Goal and Objectives

The proposed amendments to the development code address the conflicts that exist in the current code language and integrate terminology from the Stormwater Manual. The issues that are being addressed are as follows:

1. Permit requirements for trees, clearing, and grading were enmeshed in the current code. Changes to the permit requirements and exemptions are necessary because there are different criteria for tree removal than for land disturbing activities. Many citizens are only interested in tree removal and need to clearly separate what is required.
2. Current code language does not clearly differentiate between tree removal and pruning, clearing, and land disturbing activities.
3. The Stormwater Manual adopted in 2009 uses the more comprehensive term "land disturbing activity." To keep regulations consistent use "land disturbing activity in the Development Code.
4. "Basic operating conditions and standards of performance" subsection was mostly removed because its standards are piecemeal, intended for a county gravel pit with benching, and not applicable to Shoreline. A more comprehensive set of criteria are required through the grading application checklist and completed by a professional engineer.

Tree Amendment Goal and Objectives

The overall goal is to amend the tree code to address the Council's 9 directions and to be more clear, equitable, and flexible.

1. Survey the city-wide tree canopy possibly every 5 years for a big-picture assessment of changes and the effectiveness of the tree code.
2. Assign each parcel minimum tree credits that are proportional to parcel size and the amount of pervious surface required by zoning. Tree credits could be met in a variety of ways and would be remain consistent no matter a property's history or future development plans.

3. With the wide range of opinions on trees in the community, the proposed flexibility allows a property owner to decide which trees they want to retain or replace in the locations that they want on their property. This allows them to create solar access, remove trees that appear hazardous, or trees that clog their gutters. It also does not limit a property owner to retain and plant more trees than would be required.
4. Staff anticipates that the rate of tree removal will not increase because of the proposed code amendments. If property owners are more able to choose their trees and their locations then the trees are more likely to thrive and less likely to violate provisions of the code.

Draft Amendment Organization

The proposed code amendments (Attachment B) will look very different from the existing code (Attachment C). The existing code has a number of overlapping good intentions but ultimately it is confusing and redundant. The portions that administered just clearing and grading regulations were separated into their own subsection. The proposed amendments have changed the existing code to a point where the proposal is clearer to read without legislative marks.

The approach is similar to staff's earlier proposal to use minimum tree credits as the core to the tree code. The Definitions, Critical Areas, and Landscaping code sections were also reviewed to look for consistencies and conflicts with the Tree code.

Administration of Proposed Code

Currently, staff expends a lot of unquantifiable time administering and trouble-shooting tree issues that do not generate permit revenue for the City. The proposed code amendments should greatly improve staff's administration and the public understanding of the tree code.

A major City Council concern was that trees were being removed without permit and with little record. Tree removal and replanting will normally be a part of the review of a larger development permit. However, the proposed code requires a permit to remove trees that are 2 inches in diameter or larger. The reason for the 2-inch size is that 2-inch replacement trees, as proposed, have tree credit value, are protected, and therefore do not need bonding to reach a larger size. This will have a larger, contextual explanation on July 1.

This means that property owners who want to remove one, 2-inch diameter tree would need the City's approval. If the City decides not want to create an exempt classification, then staff recommends that the submittal requirements, over-the-counter review, and associated fee for tree removal to be minimal. Submittal requirements could be limited to a declaration that the information is accurate (no consultant survey) and that minimum tree credits are met with the list of the trees to be removed and replaced.

If you have any questions prior to the meeting, contact Paul at (206) 801 2551 or at pcohen@shorelinewa.gov.

Attachments

1. City Council 9 Decision Modules and Staff Responses
2. Proposed Amendments for Land Clearing, Site Grading, and Tree Conservation - Section 20.50.290 (Ancillary Amendments for Definitions, Critical Areas, and Landscaping Code Sections).
3. Existing Tree Conservation, Land Clearing and Site Grading – Section 20.50.290

ATTACHMENT 1

Council's Decision Modules and Staff Reponses

DM-1 Establish a baseline urban forest canopy city wide. This baseline would provide the context for the Council to make a policy decision, most likely in 2010, about a long-range City target for desired tree canopy. With such a baseline and target in place, the City could then monitor the overall City canopy, perhaps every 5 years, to assess its health and identify any further programs or code amendments as needed.

Staff – The City-wide survey will build the City's confidence in the proposed amendment's simplicity and flexibility as it applies to individual parcels. A city-wide canopy survey would not be part of the development code but a separately funded program.

DM-2 Reorganize SMC 20.50.290 to separate clearing and grading provisions into a different subsection because the intent, purpose, and exemptions are entangled. Though they affect each other, clearing and grading have different development standards than trees.

Staff – The proposed amendment has separated the clearing and grading regulations within its own subsection of the code. It has been amended mostly to remove redundant language and provisions. The content and requirements are clarified but unchanged.

DM-3 Delete the exemption in SMC 20.50.310.B.1 that allows the removal of 6 significant trees every 36 months without permit. This is potentially a huge loss in our city-wide tree canopy because we don't regulate or monitor this provision.

Staff – This current code exemption has been eliminated because it could not be tracked without a permit and therefore no history of removed trees in the previous 36 months. The amendments account for all trees to be considered in a parcel's tree requirements, which clears up whether a tree can be removed and fills in gaps in the city records.

DM-4 Amend SMC 20.50.310.A to establish clear criteria and thresholds when a hazardous tree is reviewed by a City third party arborist. Add requirements for replacement trees when hazardous trees are removed. Currently, property owners use their own arborists to determine a hazardous tree without thresholds to determine when it is hazardous. If the City doesn't agree with the assessment then we can require a third party assessment. This costs the property owner twice and prolongs a decision. Requiring the use of a City's arborist makes the assessment more objective and less costly for everyone.

Staff - If there is evidence of an <u>emergency</u> hazardous tree that needs to be cut then an arborist is not required. The proposed amendments eliminate the need to regulate <u>potentially</u> hazardous trees separately and to include them as part of

minimum tree credits to be decided by the property owner if it is hazardous. Both of these situations eliminate the need for a certified arborist. In general, where an arborist is needed will be drawn from a City-approved list of arborists that removes the potential of involving two arborist, their costs, and potential bias.

DM-5 Amend SMC 20.50.360 to allow for reasonable tree replacement ratios and the possibility to replace trees on other land within the City. Many development sites do not have the room to plant all the replacement trees. These replacement trees are easily cut down because they are not defined as significant trees after the 3-year protection period.

Staff - The amendments base the tree replacement on the minimum tree credits assigned to a parcel. There should be no excess replacement trees to locate elsewhere. The transfer of tree replacements to other parcels is problematic because of the transfer of the legal responsibility.

The amendments instead require trees to be retained and replaced to meet the minimum tree credits. In this way, the City is not administering many, small tree bonds or requiring expensive title notifications.

DM-6 Amend SMC 20.50.350.B.2 to remove code provisions for 30% preservation of significant trees if a critical area is on site because trees in critical area trees are already protected under the Critical Area provisions of SMC 20.80. A relatively small critical area could trigger 30% preservation on the entire site when the intent is to preserve the critical area and its trees. The change would keep the base significant trees preserved as well as all trees in the critical areas.

Staff – This provision created confusion to calculate 30% because it was unclear whether it included all trees on site or if it assumed that the critical area had significant trees. This provision is unnecessary if the CAO protects all trees in its areas. This provision added to the inequitability of those parcels with large critical areas.

DM-7 Amend SMC 20.50.350.B.1 to remove and replace the flat code provision for 20% preservation of significant trees. The existing rule is inequitable because, for example, a site that is covered with 100 trees would have to retain 20 trees, while a small site with only 5 trees would only have to save one. We could devise a more equitable system that requires tree preservation based at least partially on lot size.

Staff – Retention of 20% significant trees does not promote larger trees and diminishes each time a property owner applies for development or improvement. The amended system is based on a parcel's minimum tree credits that remain the same no matter its building and tree history or future. These credits are proportional and therefore equitable to the parcel size and the maximum lot coverage (building and hardscape) allowed.

DM-8 Reorganize and clarify code provisions SMC 20.50.350.B-D that gives the Director flexible criteria to require less or more trees to be preserved so that site design can be more compatible with the trees. For example, the current code

requires that all trees with the following qualities shall be preserved - in groves, above 50 feet in height, continuous canopy, skyline features, screen glare, habitat value, erosion control, adjacent to parks and open space, and cottonwoods. In general, these are good qualities but if all these requirements are applied the result would prevent development on many lots.

Staff - The current code for the directors allowance to increase or decrease tree retention and decreasing tree replacement were rarely used because they were not requested, clear, or consistent. The flexibility and equitability of the proposed amendments make this section unnecessary.

DM-9 Amend SMC 20.30.770(D) to provide greater clarity and specificity for violations of the tree code. Currently, code enforcement has difficulty proving violation intent and therefore exacting penalties.

Staff – The City's code enforcement officer recommends the amendments because it provides clarity to the regulations which results in better enforcement.